



# **Whose IDEA Is This?**

## ***A Resource Guide for Parents***

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Office for Exceptional Children  
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Columbus, Ohio 43215-4183*

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## TABLE OF CONTENTS

<b>Steps to Getting Services</b> .....	2
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### **Answers to Frequently Asked Questions**

Prereferral/Request for Assistance.....	8
Referral .....	8
Notices.....	8
Surrogate Parents.....	9
Consent .....	9
Evaluation .....	11
Reevaluation.....	13
Independent Educational Evaluation .....	13
Individualized Education Program (IEP).....	14
Extended School Year Services.....	18
Student Transfer .....	18
Transition .....	19
Records .....	20
How to Resolve Conflicts or Concerns .....	22
Resolving Disagreements.....	22
Mediation .....	23
Complaint Procedures .....	25
Due Process .....	28
Discipline .....	36
Nonpublic Schools.....	42

### **Appendix**

Commonly Used Terms.....	45
Disability Conditions Defined.....	50

### **Attached Forms**

Mediation Form

Complaint Form

Due Process Complaint Notice and Request for a Due Process Hearing

*Note:* These changes reflect provisions of the final federal regulations at 34 Code of Federal Regulations (CFR) Part 300, effective October 13, 2006, which implement the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), Public Law 108-446. Requirements under Ohio law and rules which exceed the federal requirements are unchanged and remain in effect. This Guide summarizes the provisions of the IDEA and related federal regulations and state rules and is not intended to address all the provisions of those listed legal resources nor to provide legal advice or legal interpretations of those resources. Refer to those resources for complete information, and consult with your attorney for legal advice or legal interpretations.

*Note:* This Guide is also available in Spanish.

\* Denotes parent(s) choice

□ Denotes optional practice

☆ Denotes requirement

**I. STEPS TO GETTING SERVICES**

**WHAT HAPPENS IF MY CHILD IS HAVING TROUBLE LEARNING IN SCHOOL?**

You are encouraged to actively take part in all steps described below by asking questions, providing information and helping make decisions about your child's education. The table below is a brief summary. Please refer to the information following the table for additional guidance.

	<b>PARENT(S)</b>	<b>SCHOOL DISTRICT</b>
<b>PREREFERRAL/ REQUEST FOR ASSISTANCE</b>	<ul style="list-style-type: none"> <li>* Contacts the teacher to discuss any concerns</li> <li>* Provides information that might be helpful</li> <li>* Requests intervention assistance</li> <li>□ Participates in determining suspected disability through the intervention team process</li> </ul>	<ul style="list-style-type: none"> <li>□ Contacts the parent(s) for information</li> <li>□ Attempts different strategies and documents results</li> <li>□ Contacts parent(s) to participate in a meeting to determine if a referral is needed when a disability is suspected through the intervention team process</li> <li>□ Uses intervention assistance team to suggest new interventions and documents results in writing</li> </ul>
<b>REFERRAL</b>	<ul style="list-style-type: none"> <li>* Makes written request for an evaluation for a suspected disability, if needed</li> <li>☆ Receives copy of <i>Whose IDEA Is This?</i></li> <li>* Asks for information about area parent support groups</li> <li>* Gives informed consent in writing. Your consent for an evaluation cannot be interpreted as consent for initial placement</li> </ul>	<ul style="list-style-type: none"> <li>☆ Makes referral for an evaluation if your child is suspected of having a disability</li> <li>☆ Contacts the parent(s), explains referral process and provides copy of <i>Whose IDEA Is This?</i></li> <li>☆ Provides copy of written notice to parents</li> <li>☆ Asks the parent(s) for consent to evaluate if district suspects a disability</li> <li>☆ Receives written parental permission for evaluation</li> </ul>

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	PARENT(S)	SCHOOL DISTRICT
<b>EVALUATION</b>	<ul style="list-style-type: none"> <li>★ Participates in evaluation team activities including determination of eligibility</li> <li>★ Provides information for evaluation process (e.g., medical, family and educational history; perception of your child's strengths and needs)</li> </ul> <p>If your child <b>is not eligible</b> for special education and related services and you disagree with this determination, you may:</p> <ul style="list-style-type: none"> <li>★ Request an independent educational evaluation (See page 13)</li> <li>★ Request a due process hearing</li> </ul>	<ul style="list-style-type: none"> <li>★ Contacts the parent(s) to participate in the evaluation process</li> <li>★ Provides the parent(s) with written notice that includes a description of the planned evaluation</li> <li>★ Collects information from parent(s), teachers, and others</li> <li>★ Completes evaluation within 60 days of receiving parents' consent to evaluate</li> <li>★ Conducts evaluation team meeting to which the parent(s) has been invited</li> <li>★ Summarizes and interprets evaluation results</li> <li>★ Determines eligibility for special education services. If your child is eligible, an individualized education program (IEP) meeting will be conducted within 120 days of referral or within 90 days of signed parental consent</li> <li>★ Provides the parent(s) with a copy of the evaluation team report</li> </ul> <p>If your child <b>is not eligible</b> for special education services, the school district:</p> <ul style="list-style-type: none"> <li>★ Provides the parent(s) with a copy of the evaluation team report</li> <li>□ Determines appropriate modifications and/or interventions</li> <li>□ Considers eligibility for services under Section 504</li> </ul>

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	<b>PARENT(S)</b>	<b>SCHOOL DISTRICT</b>
<b>BEFORE THE IEP MEETING</b>	<ul style="list-style-type: none"> <li>★ Requests copy of the district's suggestions for the IEP</li> <li>★ Reviews <i>Whose IDEA Is This?</i></li> <li>★ Seeks support, if desired</li> <li>★ Invites person(s) who has special expertise or knowledge of your child to IEP meeting, if needed</li> <li>★ Prepares and shares with school district in advance, written concerns, questions and suggestions for the IEP</li> </ul>	<ul style="list-style-type: none"> <li>★ Notifies the parent(s) and/or student of IEP meeting and who will attend and provides the parent(s) and/or student with a copy of <i>Whose IDEA Is This?</i> (See page 8.)</li> <li>★ Determines mutually agreed-upon time and place for the meeting</li> <li>□ Prepares and shares with the parent(s) in advance, written concerns, questions and suggestions for the IEP</li> <li>★ Invites your child to IEP meeting, when appropriate, and always when transition is being discussed</li> </ul>
<b>DURING THE IEP MEETING</b>	<ul style="list-style-type: none"> <li>★ Participates in IEP activities including:               <ul style="list-style-type: none"> <li>○ Sharing information about your child's strengths and needs</li> <li>○ Assisting in development of measurable annual goals and short-term objectives or benchmarks</li> <li>○ Determining jointly the appropriate special education and related services to be provided</li> </ul> </li> <li>★ Gives or denies consent for initial placement for your child to receive special education and related services to enable your child to be involved and progress in the general curriculum</li> <li>★ If you refuse to consent for one service, the district cannot deny the benefit of other services to your child</li> <li>★ If you refuse consent for all services, the district does not have to provide free appropriate public education (FAPE), and your child has none of the protections of IDEA</li> </ul>	<ul style="list-style-type: none"> <li>★ Reviews the evaluation results and eligibility jointly with the parents</li> <li>★ Develops IEP that includes:               <ul style="list-style-type: none"> <li>○ Your child's strengths and needs</li> <li>○ Measurable annual goals and short-term objectives or benchmarks</li> <li>○ Appropriate special education and related services for your child to be involved and progress in the general curriculum</li> <li>○ Consideration of special factors</li> </ul> </li> <li>★ Provides the parent(s) with written notice. If the parent refuses to consent for one service, the district cannot deny the benefit of other services to the child</li> <li>★ Gives the parent(s) a final copy of the IEP after the meeting</li> <li>★ Ensures that your child's IEP is accessible to each regular education teacher, special education teacher, related services provider and any other service provider who is responsible for its implementation</li> </ul>

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	PARENT(S)	SCHOOL DISTRICT
<b>ANNUAL REVIEW</b>	<ul style="list-style-type: none"> <li>* Requests copy of the district's suggestions for the IEP</li> <li>* Gathers school papers and other information that may be helpful at the meeting</li> <li>* Reviews <i>Whose IDEA Is This?</i></li> <li>* Brings support person(s) to meeting, if desired</li> <li>* Reviews current IEP</li> <li>* Prepares and shares with school district in advance, written concerns, questions and suggestions for the IEP</li> <li>□ Gives written consent if there is a change of placement on the continuum. Permission is not required for a change of placement due to discipline</li> </ul>	<ul style="list-style-type: none"> <li>★ Contacts the parent(s) to participate in the annual review in the same manner as the initial IEP meeting</li> <li>★ Gathers information on your child's progress</li> <li>□ Prepares and shares with the parent(s) in advance, written concerns, questions and suggestions for the IEP</li> <li>★ Reviews current IEP and revises it if appropriate</li> <li>★ Provides the parent(s) with written notice</li> <li>★ Gives the parent(s) a final copy of the IEP after the meeting</li> <li>★ Ensures that your child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation</li> </ul>

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	<b>PARENT(S)</b>	<b>SCHOOL DISTRICT</b>
<b>REEVALUATION</b>	<ul style="list-style-type: none"> <li>* Reviews <i>Whose IDEA Is This?</i></li> <li>* Participates in the review of existing information about your child</li> <li>* Participates in the reevaluation process</li> <li>* May request additional assessment</li> <li>★ Gives written consent or denies consent for additional assessment</li> <li>* Participates in determining continued eligibility for special education services</li> <li>* Requests an evaluation sooner than three years if desired, especially if there is a change in your child's needs</li> </ul>	<ul style="list-style-type: none"> <li>★ Invites the parent(s) to participate in the reevaluation process</li> <li>★ Explains reevaluation process, including the parent's right for additional assessment to determine continued eligibility</li> <li>★ Provides copy of <i>Whose IDEA Is This?</i> to the parent(s)</li> <li>★ Provides the parent(s) with written notice</li> <li>★ Obtains written parental permission for reevaluation if additional assessments are necessary or are requested by you</li> <li>★ Gives the parent(s) information about which staff members will evaluate and the kinds of assessments, if any, to be used in the reevaluation</li> <li>★ Convenes an IEP team meeting to which the parent(s) has been invited</li> <li>★ Affords the parent(s) the opportunity to participate in making the determination about their child's continued eligibility</li> <li>★ Provides the parent(s) with a copy of the evaluation team report</li> </ul>

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	<b>PARENT(S)</b>	<b>SCHOOL DISTRICT</b>
<b>INDEPENDENT EDUCATIONAL EVALUATION</b>	<ul style="list-style-type: none"><li>* Informs school in writing of any disagreement with the district's evaluation</li><li>* May request a list of independent evaluators</li><li>* May obtain an independent educational evaluation unless the school district files a due process complaint to request a hearing to show that its evaluation is appropriate</li></ul>	<ul style="list-style-type: none"><li>★ Informs the parent(s) of the right to an independent educational evaluation if there is a disagreement with the school district's evaluation</li><li>□ Asks for the parent's reason for objecting to the district's evaluation</li><li>★ Provides information about where an independent educational evaluation may be obtained</li><li>★ Provides for the independent educational evaluation or provides the parent(s) with written notice and informs them that the district is requesting a due process hearing because the school district believes that its evaluation is appropriate</li></ul>

## ANSWERS TO FREQUENTLY ASKED QUESTIONS

### PREREFERRAL/REQUEST FOR ASSISTANCE

#### ***What do I do if my child is having difficulty learning in school?***

You may:

- Contact the teacher to discuss your concern and provide information that might be helpful;
- Request intervention assistance; and/or
- Participate in a meeting to determine if your child is suspected of having a disability.

#### ***What if the teacher reports that my child is having difficulty learning in school?***

The school district may:

- Contact you for information;
- Attempt different strategies and document the results;
- Use an intervention assistance team to generate additional ideas and document the results; and/or
- Contact you to participate in a meeting to determine if your child is suspected of having a disability.

**No matter where you are in the prereferral process, if you suspect your child has a disability, at any time you may request an evaluation using a variety of assessment tools and strategies to gather relevant functional, developmental and academic information about your child, including information provided by you as the parent.**

### REFERRAL

#### ***Who can make a referral?***

If your child is suspected of having a disability and might need special education services, a referral for evaluation may be made by:

- You, the parent;
- School personnel; and/or
- State educational agency or other state agency.

#### ***If the referral is made by***

- **You:** It should be made in writing to the school district stating that you suspect your child has a disability, and that you are asking for an evaluation.

- **School personnel:** You will be contacted by someone from the school district.

#### ***After a referral is made and the district suspects a disability and before the evaluation begins:***

- You must be given prior written notice, described below, within 30 days of the date of referral.
- The school district must get your informed consent in writing to evaluate your child.
- If you refuse to give your consent to evaluate, the school district may use mediation or due process procedures.

### NOTICES

#### ***What is the procedural safeguards notice?***

It is the parent resource guide, *Whose IDEA Is This?*, which includes your rights under special education law and sources for you to contact for assistance (see page 22).

#### ***When must the school district provide me with the procedural safeguards notice?***

The school district must give you a copy of *Whose IDEA Is This?* only one time a year, except the district must also give you a copy at each of the following times:

- Upon initial referral or parental request for evaluation;
- Upon receipt of the first state complaint;
- Upon the reevaluation of the child;
- Upon notification of an IEP meeting;
- Upon the filing of a due process complaint;
- Upon a change in placement for disciplinary action; and
- Upon request by a parent.

A school district may place a current copy on its Internet Web site if such Web site exists; posting *Whose IDEA Is This?* on a school district's Internet Web site shall not be the sole method of providing the procedural safeguards notice.

#### ***May I choose to receive from the school district notices required under procedural safeguards by an electronic mail (e-mail) communication?***

Yes, you may choose to receive notices required under procedural safeguards by electronic mail

(e-mail) communication if the school district makes such option available.

### ***What is prior written notice?***

You should receive information, in writing, within a reasonable time before the school district proposes or refuses to begin or change the identification, evaluation, educational placement or provision of a free appropriate public education (FAPE) to your child.

This prior written notice must:

- Describe the action proposed or refused by the school district;
- Explain why the agency proposes or refuses to take action;
- Describe other options that the IEP team considered and the reasons why those options were rejected;
- Provide a description of each evaluation procedure, assessment, record or report the school district used as a basis for its decision;
- Provide a description of other factors that are relevant to the school district's decision;
- Include a statement that you have protection under procedural safeguards and, if this prior written notice is not an initial referral for evaluation, the school district will give you a copy of *Whose IDEA Is This?*; and
- Identify sources for you to contact for assistance in understanding prior notice rights.

Eligibility criteria have been established for each of the disability conditions recognized in federal and state law. These disability conditions are defined beginning on page 50.

Prior notice to parents must be written in language understandable to the public, and must be provided in your native language or other method of communication, unless it is clearly not feasible to do so. If your native language or other method of communication is not a written language, the school district will translate the notice orally or by other means. The school district must keep a written record that this has been done.

If you disagree with the school district regarding any of the information in the prior written notice, see page 22.

## **SURROGATE PARENTS**

### ***What is a surrogate parent?***

A surrogate parent is someone appointed by the school district who acts in the place of a child's parent when:

- The parent cannot be identified;
- The school district, after reasonable efforts, cannot locate the parent;
- The child is a ward of the state.  
NOTE: The surrogate parent for a child who is a ward of the state alternatively may be appointed by the judge overseeing the child's care, provided the surrogate meets the requirements to be a surrogate parent.
- The child is an unaccompanied homeless youth.

A surrogate parent shall represent the child in all educational matters including:

- Identification;
- Evaluation;
- Educational placement of the child; and
- Provision of FAPE to the child including participation in the IEP process.

A surrogate parent must be someone who:

- Has received state-approved training to represent the child adequately;
- Is not an employee of the school district, Ohio Department of Education, or any other agency involved in the education or care of the child, including public children's service agencies (There are certain exceptions to this prohibition relating to the appointment of temporary surrogate parents for an unaccompanied homeless youth);
- Has no personal or professional conflict of interest with the child he or she represents; and
- Has the knowledge and skills to adequately represent the child.

## **CONSENT**

### ***What does consent mean?***

Consent means:

- You have been given **all** information necessary to make an informed decision about the proposed activity. This information must be, provided in your native language or other mode of communication.

- You understand and agree in writing to the proposed activity. The document(s) you sign must describe the activity and list any records that will be released. It must also list who will receive these records.
- You understand that giving your consent is voluntary and that you may withdraw your consent at any time. However, if you withdraw consent, that withdrawal does not overturn an action that has occurred after the consent was given and before the consent was withdrawn.

***When must the school obtain my written consent?***

In Ohio, the school district must have your written consent under four conditions:

- Before the initial evaluation begins;
- Before special education and/or related services are started for the first time;
- If there is a change in placement on the continuum of services, except for removal for disciplinary reasons (see page 36); and
- If you and/or the IEP team determine the need for additional assessment during the reevaluation process.

Your consent for initial evaluation shall not be construed as consent for initial provision of special education and related services.

***What happens if I do not consent to the initial evaluation?***

If you do not provide consent for an initial evaluation under the consent for initial evaluation provisions or you fail to respond to a request to provide the consent, the school district may pursue the initial evaluation of your child by filing a due process complaint against you or may request that you participate with the school district in mediation offered by the Ohio Department of Education.

***Does the school district have to obtain my consent for services?***

An agency that is responsible for making a free appropriate public education available to your child with a disability must make reasonable efforts to obtain informed consent from you for the initial provision of special education and related services to your child.

***What happens if I refuse to consent to the initial provision of special education and related services?***

If you fail to respond or refuse to consent to services under the consent for services provisions, the school district may not use the procedures in subpart E of the federal regulations, including the mediation procedures or the due process procedures, in order to obtain agreement or a ruling that the services may be provided to your child.

If you refuse to consent to the initial provision of special education and related services, or if you fail to respond to a request to provide such consent:

- The school district shall not be considered to be in violation of the requirement to make available a free appropriate public education to your child for the failure to provide your child with the special education and related services for which the school district requests such consent; and
- The school district shall not be required to convene an IEP team meeting or develop an IEP for your child for the special education and related services for which the school district requests such consent.

***What are the requirements to obtain consent for wards of the state?***

If the child is a ward of the state and is not residing with the child's parent, the school district shall:

- IN GENERAL: Make reasonable efforts to obtain the informed consent from the parent of the child for an initial evaluation to determine whether the child is a child with a disability.
- EXCEPTION: The school district shall not be required to obtain informed consent from the parent of a child for an initial evaluation to determine whether the child is a child with a disability if:
  1. Despite reasonable efforts to do so, the school district cannot discover the whereabouts of the parent of the child;
  2. The rights of the parents of the child have been terminated in accordance with state law; or
  3. The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial

evaluation has been given by an individual appointed by the judge to represent the child.

**RULE OF CONSTRUCTION:** The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

***When in the evaluation process is my consent not needed?***

Your consent is not required:

- When reviewing existing information for either evaluation or reevaluation; or
- When giving tests to all children unless consent is required for everyone.

**EVALUATION**

***What does evaluation mean?***

Evaluation is a process used to gather information to assist in determining whether your child has a disability and determining the type and amount of services your child may need.

The purpose of evaluating your child is to:

- Get a complete picture of your child's abilities as a starting point for planning educational services;
- Make recommendations about ways to meet your child's educational needs; and
- Determine eligibility for special education services.

***Who may initiate a request for an initial evaluation to determine if the child is a child with a disability?***

Consistent with the other provisions of this guide that apply to parental consent, either a parent, or a state educational agency, other state agency, or local educational agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.

***When does my child need an evaluation?***

Your child needs an initial evaluation when the school district suspects that your child has a disability. If your child is already receiving special education and related services, a reevaluation must be conducted at least every

three years, unless the parent and the school district agree that a reevaluation is unnecessary. This reevaluation is done to assure that your child is still eligible to receive special education and related services, and to determine if the services are appropriate. If your child transferred from one school district to another in the same academic year, your child's assessment will be coordinated with your child's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

The evaluation of your child must:

- Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about your child, including information provided by you;
- Not use any single measure or assessment as the sole criterion for determining whether your child is a child with a disability and for determining an appropriate educational program for the child;
- Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors;
- Be provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer;
- Be unbiased, or given in such a way so as not to discriminate against your child, regardless of his or her cultural background, race or disability;
- Use background information provided by you, the parent. This could include any reports from professionals outside the school district;
- Gather information related to helping your child be involved in and progress in the general curriculum, or for preschool children, to participate in appropriate activities;
- Are used for purposes for which the assessments or measures are valid and reliable; and
- Are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of such assessments.

The evaluation must address all of the areas related to the suspected disability, including where appropriate:

- Health;
- Vision;
- Hearing;
- Social and emotional status;
- General intelligence;
- School performance (achievement);
- Communication status (listening, speaking and writing);
- Movement/usage of muscles (motor abilities);
- Ability to do (aptitudes);
- The child's surroundings (environments) and their effect upon learning; or
- Adaptive behavior.

You may request that other areas be assessed as part of your child's evaluation.

All required evaluation components, including medical, are provided by the school district at no cost to you. When all of the evaluation components have been gathered, the IEP team and other qualified professionals, as appropriate, must:

- Review evaluation results;
- Summarize and interpret the evaluation team report;
- Determine if your child has a disability; and
- Write an IEP, if necessary.

***If my child has trouble with reading or math, is my child considered to be a child with a disability?***

Your child will not be determined to be a child with a disability if the determinant factor for such determination is:

- Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined by section 1208(3) of the Elementary and Secondary Education Act of 1965);
- Lack of instruction in math; or
- Limited English proficiency.

***How will the district determine whether my child has a specific learning disability?***

In determining whether your child has a specific learning disability:

- A school district is not required to take into consideration whether your child has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning.
- A school district may use a process that determines if your child responds to scientific, research-based intervention as a part of the evaluation procedures.

***What is the timeframe for determining if my child is a child with a disability?***

IN GENERAL: The initial evaluation shall consist of procedures: to determine whether your child is a child with a disability within 60 days of receiving your consent for the evaluation; and to determine the educational needs of your child. EXCEPTION: The 60-day timeframe does not apply if:

- Your child enrolls in a school served by the school district after the 60-day timeframe has begun and prior to a determination by your child's previous school district as to whether your child is a child with a disability, but only if:
  1. The subsequent school district is making sufficient progress to ensure a prompt completion of the evaluation; and
  2. You and the subsequent school district agree to a specific time when the evaluation will be completed;or
- You repeatedly fail or refuse to produce your child for the evaluation.

NOTE: The 60-day period tracks the time between the consent for evaluation and the initial evaluation. The 30-, 90-, and 120-day time periods (established in Rule 3301-51-07 (D) and referenced in this guide) are still in effect because they track different time periods that apply to the development of the initial IEP.

The school district will provide you with a copy of the evaluation team report. If your child has a disability, the IEP must be developed not more than 90 days after your written consent for the evaluation has been received by the school district. The IEP meeting must be conducted within 30 days of determining that the child needs special education and related services.

## REEVALUATION

### ***What is the purpose of reevaluation?***

The primary purpose of reevaluation is to determine if the student continues to be eligible for special education and related services and whether any additions or modifications to the special education and related services are needed to enable the student to meet annual goals set out in the IEP and to participate, as appropriate, in the general education curriculum.

### ***When must a reevaluation be done?***

IN GENERAL: A reevaluation shall be conducted:

- If the school district determines that the educational or related services needs, including improved academic achievement and functional performance, of your child warrant a reevaluation;
- If you or your child's teacher requests a reevaluation;
- When your child transitions from preschool to school-age services;
- In order to make a change in disability category;
- Before determining that your child is no longer a child with a disability; or
- When related services are being considered for addition to an existing IEP.

LIMITATION: A reevaluation shall occur:

- Not more frequently than once a year, unless you and the local educational agency agree otherwise; and
- At least once every three years, unless you and the local educational agency agree that a reevaluation is unnecessary.

### ***What happens when it is time to re-evaluate your child for special education services?***

The school district will:

- Invite you to participate in the reevaluation process;
- Explain the reevaluation process, including your right to request an assessment to determine whether your child continues to be a child with a disability, and to determine your child's educational needs;
- Provide you with a copy of *Whose IDEA Is This?*;
- Provide you with prior written notice; and

- Obtain your written consent if new assessments are necessary or if they were requested by you.

However, the reevaluation process, including new assessments, may proceed if the school district demonstrates and documents reasonable efforts (i.e., telephone calls, written notice, home visits) to obtain your consent and you fail to respond.

### ***What happens during a reevaluation?***

During a reevaluation the IEP team, including you, and other qualified professionals, as appropriate, reviews current data and, based on this review:

- Determines if and what additional assessments and other evaluation measures (provided by the school district) are necessary to determine continued eligibility and if a change in services is needed; or
- Determines that no additional information is required to continue eligibility or that changes in service are not necessary. You will be notified of the reasons why no further data is needed and that your child continues to be eligible for special education and related services.

If it is determined that no additional assessment is needed, the district must let you know that you have a right to request an assessment to determine whether your child continues to be a child with a disability and continues to need special education and related services.

## INDEPENDENT EDUCATIONAL EVALUATION

### ***What if you disagree with the school district's evaluation?***

You may obtain an independent educational evaluation if you disagree with the school district's evaluation results.

### ***What is an independent educational evaluation?***

An independent educational evaluation (IEE) is an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of your child.

***What is the purpose of an independent educational evaluation?***

If you disagree with your school district's evaluation, you have the right to an independent educational evaluation at public expense without unnecessary delay unless the school district files a due process complaint to request a hearing to show that its evaluation is appropriate. Public expense means that the school district either pays for the full cost of the educational evaluation or ensures that the evaluation is provided without delay at no cost to you. Whenever an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and qualifications of the examiner, must meet the same criteria that the school district uses when it initiates an evaluation. Except for these criteria, the school district may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense. The independent evaluation must be provided at public expense unless the school district demonstrates in a due process hearing that the independent evaluation does not meet the district's criteria.

In addition, an independent educational evaluation may be requested by a hearing officer. In this case, the independent educational evaluation *must* be at public expense.

NOTE: If you request an independent educational evaluation, the school district may ask you for the reason you object to the district's evaluation. You are not required to provide an explanation, and the school district may not unreasonably delay providing the independent educational evaluation at public expense or initiating a due process hearing to defend the district's evaluation.

***What if the school district believes its evaluation is appropriate?***

It is the school district's responsibility to request without delay a due process hearing to show that its evaluation is appropriate. However, if the final decision is that the district's evaluation is appropriate, you still have the right to an independent educational evaluation at *your* expense. If you obtain an independent evaluation at your expense, the school district must consider those results in planning your child's program. Those results may also be

presented as evidence in an impartial due process hearing.

***Where can you get an independent educational evaluation?***

At your request, the school district must provide you with information about where an independent educational evaluation may be obtained and the school district's criteria for conducting an independent educational evaluation. Note that you are entitled to only one independent evaluation at public expense each time the public agency conducts an evaluation with which you disagree.

**INDIVIDUALIZED EDUCATION PROGRAM (IEP)**

***What is an individualized education program?***

An individualized education program (IEP) is a written statement for a child with a disability that is developed, reviewed, and revised and implemented according to federal and state regulations. The IEP includes:

- A statement of your child's strengths and needs (present levels of academic achievement and functional performance). This statement should include how your child's disability affects his/her involvement and progress in the general curriculum (i.e., the same curriculum as for nondisabled children). For preschool children, this statement should include how the disability affects your child's participation in appropriate activities;
- A statement of measurable annual goals, including short-term instructional objectives or benchmarks and academic and functional goals designed to meet your child's needs that result from his/her disability. These goals and objectives should enable your child to be involved in and progress in the general education curriculum. They must also meet your child's other educational needs that result from your child's disability;
- A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to or on behalf of your child. There should also be a statement of the program modifications or supports for school personnel that will be provided for your child to:

- Advance toward reaching the annual goals;
- Be involved and progress in the general curriculum and to participate in extracurricular and other nonacademic activities; and
- Be educated and participate with other children with and without disabilities.
- An explanation of the extent, if any, to which your child will not participate with nondisabled children in the regular class and other school activities;
- A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of your child on state and districtwide assessments. If the IEP team determines that your child shall take an alternate assessment on a particular state or districtwide assessment of student achievement a statement of why:
  1. Your child cannot participate in the regular assessment; and
  2. The particular alternate assessment selected is appropriate for your child.
- The projected date for the beginning of the services and modifications described in the IEP and the anticipated frequency, location and duration of those services and modifications;
- Beginning at least one year before your child reaches the age of majority under state law (18 years in Ohio), a statement that your child has been informed of all rights under IDEA that will transfer to him/her when he/she reaches age 18; and
- A statement of how your child's progress toward the annual goals will be measured, how you will be regularly informed and the extent to which this progress is sufficient to enable your child to achieve the goals by the end of the year.

The IEP Team shall also review and consider the following special factors:

Your child's participation in various testing programs including proficiency tests;

- The transition of your child from preschool special education services (ages 3-5) to school-age special education services;

- Beginning at age 14 and updated annually, a statement of transition service needs that focus on your child's courses of study (e.g., participation in advanced placement courses or a vocational education program);
- Beginning at age 16 and updated annually thereafter:
  1. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills;
  2. The transition services (including courses of study) needed to assist your child in reaching those goals;
- A positive behavior plan if your child's behavior interferes with his or her learning or that of others;
- Physical education programs that address your child's individual needs;
- Your child's need for extended school year services;
- The need for Braille instruction if your child has a visual impairment;
- The communication needs of your child, which include listening, speaking, reading and writing. If your child is deaf or hard of hearing, the IEP team shall consider your child's language and communication needs, opportunities for direct communication with his/her classmates, teachers, and therapists in your child's language and communication mode;
- Your child's language needs as they relate to the IEP if he/she has limited English proficiency (LEP); and
- Your child's need for assistive technology devices and services.

***What are the arrangements for an IEP meeting?***

The IEP meeting is arranged by the school district, addressing the following details:

- You and/or your child should be notified of the meeting early enough to ensure that you will have an opportunity to attend.
- The meeting should be scheduled at a mutually agreed upon time and place.
- The meeting notice should include the purpose, time, location and who will be attending.
- If you cannot attend, the school district shall use other methods to allow you to

participate in the meeting, such as individual or conference telephone calls.

- If you cannot attend or participate, a meeting may be conducted without you if the school district is unable to convince you that you should attend the meeting.
- The school district must have a record of its attempts to reach you.
- The school district shall take whatever action is necessary to ensure that you understand the proceedings of the IEP team meeting, including arranging for an interpreter if you are a person with a hearing impairment or if your native language is other than English.
- The school district shall give you a copy of your child's completed IEP at no cost to you.

### ***Who should be a member of the IEP team?***

The school district shall ensure that the IEP team for each child includes:

- You, the parent(s);
- Your child, when appropriate, but always invited at the age of 14 and older;
- At least one of your child's regular education teachers (if your child is, or may be, participating in the regular education environment);
- At least one special education teacher or, where appropriate, at least one of your child's special education providers (e.g., occupational therapist or speech-language pathologist);
- A representative of the school district who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities. The district representative should also be knowledgeable about the general curriculum and the availability of resources of the school district;
- A person who can explain the instructional implications of the evaluation results and how they affect your child in school;
- An individual with expertise or special knowledge about your child and invited by you or the school district; and
- A representative of any other agency likely to be responsible for providing or paying for transition services.

### ***When is a member of the IEP team not required to attend an IEP meeting? How may a member of the IEP team be excused from attending an IEP meeting?***

- A member of the IEP Team shall not be required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and the local educational agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.
- A member of the IEP Team may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if:
  1. You and the local educational agency consent, in writing, to the excusal; and
  2. The member submits, in writing to you and the IEP Team, input into the development of the IEP prior to the meeting.
- If your child was previously served under Part C of IDEA, an invitation to the initial IEP meeting shall, at your request, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services.

### ***How may changes to IEPs and meetings be handled?***

Changes to IEPs and meetings may be handled as follows:

- In making changes to your child's IEP after the annual IEP team meeting for a school year, you and the school district may agree not to convene an IEP team meeting for the purposes of making such changes, and instead may develop a written document to amend or modify your child's current IEP. If changes are made in this manner, the school district must ensure that the child's IEP team is informed of those changes.
- To the extent possible, the school district shall encourage the consolidation of reevaluation meetings for your child and other IEP Team meetings for your child.
- Changes to the IEP may be made either by the entire IEP Team or, as provided in bullet one, by amending the IEP rather than by redrafting the entire IEP. Upon request, you

shall be provided with a revised copy of the IEP with the amendments incorporated.

***May the parents and school district use alternative means of meeting participation?***

Yes. When conducting IEP team meetings and placement meetings pursuant to the sections of IDEA on evaluations; eligibility determinations; IEPs; educational placements; procedural safeguards, including mediation and resolution sessions; and carrying out administrative matters under Section 615 of IDEA, Procedural Safeguards (such as scheduling, exchange of witness lists, and status conferences), you and the school district may agree to use alternative means of meeting participation, such as video conferences and conferences calls.

***What is the responsibility of the IEP team?***

IEP meeting participants shall complete the following sequence of activities:

**Step 1: Discuss Future Planning**

Everyone has dreams for the future, which guide actions, thoughts and plans. Putting dreams into words is part of the ongoing, long-range planning for your child with a disability. As part of that effort, the IEP team will discuss the student's preferences and interests.

**Step 2: Discuss Present Levels of Academic Achievement and Functional Performance**

The IEP team will review relevant information about your child. This information includes progress on the current IEP, the evaluation team report, input from you and your child, interventions, assessments, observations and special factors. This information provides a "picture" of your child including his/her strengths and needs.

**Step 3: Identify Your Child's Specialized Educational Needs for this IEP**

The IEP team will determine the area(s) of your child's specialized educational needs and his/her present levels of academic achievement and functional performance.

**Step 4: Identify Measurable Goals, Including Objectives and Academic and Functional Goals, and Assessment Procedures**

The IEP team will develop measurable annual goals and objectives and academic and functional goals with accompanying assessment procedures, which enable your child to be involved with and progress in the general education curriculum. The team then determines what services are necessary to meet your child's needs.

**Step 5: Identify Needed Services, Based on Peer-Reviewed Research to the Extent Practicable**

The IEP team decides how often, what services, based on peer-reviewed research to the extent practicable, will be necessary and who will provide them. This section of the IEP should include accommodations/modifications/assistive devices and a statement of program modifications or supports for school personnel that are needed for the child to progress within the general curriculum and participate in extracurricular and other nonacademic activities.

**Step 6: Determine Least Restrictive Environment (LRE)**

Your child's placement is presumed first to be the general education environment. If the team determines that a different setting is needed for any service delivery, the IEP team will provide an explanation of the extent, if any, to which your child is not participating with nondisabled children.

***How is my child's IEP reviewed and/or revised?***

Your child's IEP must be reviewed at least annually and revised, if appropriate. However, your child's IEP may be reviewed/revised at any time during the school year at your request or at the school district's request. You may wish to consider a revision of the IEP to address:

- Any lack of expected progress toward the annual goals and in the general curriculum, if appropriate;
- Results of any reevaluation conducted;
- Information about your child provided to you or by you;
- Your child's anticipated needs; or
- Other matters.

### ***What happens before your child reaches the age of majority (18 years in Ohio)?***

At least one year before your child reaches the age of majority, his/her IEP must include a statement that he/she has been informed that all rights will transfer to him/her at age 18. However the school district must provide any notice required under Section 615 of IDEA to the student and the parents.

### **EXTENDED SCHOOL YEAR SERVICES**

#### ***What are extended school year services?***

Extended school year (ESY) services are special education and related services that are provided outside the normal 180-day school year in accordance with the child's IEP and at no cost to the parents. You and the participants on the IEP team may consider your child's need for ESY services. The provision of ESY services is determined on an individual basis and at no cost to you.

The IEP team members shall consider the following:

- Whether ESY services are a necessary, not just beneficial, component of FAPE;
- Whether ESY services are required to prevent significant regression of skills or knowledge due to an interruption of instruction between school years; and
- Whether ESY services are required to prevent significant regression of skills or knowledge retained by the child that cannot be recouped in a reasonable amount of time.

ESY services may be the same or different from your child's regular school year services, as determined by the IEP team. The provision of ESY services is **not** automatic year after year.

### **STUDENT TRANSFER**

#### ***What are the requirements when your child transfers school districts?***

The requirements when your child transfers school districts are as follows:

- **TRANSFER WITHIN THE SAME STATE:** If your child with a disability transfers school districts within the same academic year, enrolls in a new school, and had an IEP that was in effect in the same state, the school

district shall provide your child with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with you, until the new school district either adopts the previously held IEP or develops, adopts and implements a new IEP that is consistent with applicable federal and state requirements. If the school district conducts an evaluation, that evaluation is a reevaluation.

- **TRANSFER OUTSIDE STATE:** If your child with a disability transfers school districts within the same academic year, enrolls in a new school, and had an IEP that was in effect in another state, the school district shall provide your child with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with you, until the school district conducts an evaluation, if determined necessary by the district, and develops, adopts and implements a new IEP, if appropriate, that is consistent with federal and state requirements. If the school district conducts an evaluation, that evaluation is an initial evaluation.
- **TRANSMITTAL OF RECORDS:** To facilitate the transition for your child:
  1. The new school in which your child enrolls shall take reasonable steps to promptly obtain your child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to your child, from the previous school in which your child was enrolled, pursuant to the provisions of the Family Educational Rights and Privacy Act (FERPA); and
  2. The previous school in which your child was enrolled shall take reasonable steps to promptly respond to such request from the new school.

## TRANSITION

### ***What does “transition” mean?***

Transition is the process of planned activities that may result in changes in services and the personnel who provide those services. There are at least three times in a child's educational career when transition activities should occur:

- The move from early intervention services to preschool special education services;
- The move from preschool special education services to school-age special education services; and
- The move from school-age special education services to community life.  
See page 49 for a definition of transition services.

### **Moving from early intervention services to preschool special education services**

If your child is receiving early intervention services (available for children ages birth through two) and it is suspected that your child might have a disability and may be eligible for preschool special education services, the following activities should occur:

- One hundred twenty (120) days prior to your child's third birthday, the early intervention service coordinator should schedule a meeting with you to discuss preschool special education services. Your consent is required to share information with the school district.
- If you consent to share information with the school district, you and the other participants at the meeting (early intervention service providers and school district personnel) will review records and determine whether or not your child is suspected of having a disability.

If your child is suspected of having a disability, the school district will

- Inform you of your educational rights and procedural safeguards;
- Share information about preschool special education services;
- Obtain your consent for evaluation;
- Determine the need for additional evaluation information; and
- Plan your child's assessment.

The evaluation and IEP process must be completed within 90 days from your consent. If your child is eligible for preschool special education services, the IEP must be implemented by your child's third birthday.

### ***What happens if my child is not eligible for preschool special education services?***

If your child is not eligible for preschool special education services, with your consent, referrals to other community services and programs may be made. You may also request an independent educational evaluation (see page 13) and/or an impartial due process hearing (see page 28).

### **Moving from preschool special education services to school-age special education services**

If your child has been receiving preschool special education services and is approaching school age, the IEP team will:

- Meet to determine appropriate school-age educational services;
- Review current information from your child's educational program; and
- Recommend instructional strategies that will support your child's success in the general curriculum.

If the IEP team determines that your child needs school-age special education services, the IEP team will:

- Review current assessment data (e.g., data that are less than one year old);
- Determine and recommend additional assessment information necessary according to school-age special education rules; and
- Develop the IEP.

If the IEP team determines that your child does not need school-age special education services, you will be provided with prior written notice, which includes your right to challenge this decision through due process.

### **Moving from school-age special education services to community life**

If your child has been receiving school-age special education services, a statement of transition service needs that focuses on your child's courses of study (e.g., participation in advanced placement courses or a vocational

education program) must be included on his/her IEP beginning at age 14 or younger, if determined appropriate by the IEP team. Beginning at age 16 (or younger, if appropriate), the IEP must include a statement of needed transition services for your child including, if appropriate, a statement of the interagency responsibilities or any needed linkages.

Transition activities include:

- Instruction;
- Related services;
- Community experiences;
- The development of employment and other post-school adult living objectives; and
- If appropriate, acquisition of daily living skills and functional vocational evaluation.

### ***What happens when graduation is an option for my child?***

Graduation with a regular diploma is a change in placement, which requires prior written notice to you and/or your child. Also, an IEP meeting should be held. Children can continue to receive services from the school district through age 21 as long as they do not accept a regular diploma from the school. If graduating with a regular diploma or upon reaching age 22, a reevaluation is not required prior to termination of services. If your child's eligibility terminated because your child graduated with a regular diploma or reached age 22, the school district shall provide your child with a summary of his/her academic achievement and functional performance, which shall include recommendations on how to assist your child in meeting his/her postsecondary goals.

NOTE: The term "regular high school diploma" does not include an alternative degree that is not fully aligned with the state's academic standards, such as a certificate or a general educational development (GED) credential. Ohio's GED is *not* fully aligned with Ohio's academic content standards. Therefore, a child with a disability who has received a GED may return to school to pursue his or her regular high school diploma until his or her 22nd birthday.

## **RECORDS**

### ***Can you see your child's education records?***

You have the right to see all education records relating to your child that are collected, maintained or used by the district. This includes

records regarding the identification, evaluation and educational placement of your child, as well as the provision of FAPE. The school district shall comply with your request to see your child's records without unnecessary delay (no more than 45 days after the request has been made). If you request them, education records must be provided before any IEP meeting or hearing related to your child's identification, evaluation or educational placement, or provision of FAPE.

When your child reaches the age of majority (18 years in Ohio), the district will ensure that all rights regarding education records are transferred to him/her (except for a student who has been determined to be incompetent under state law). However, if the school district has received evidence that a probate court has appointed a guardian for a child with a disability, the district shall appoint the legal guardian to represent the educational interests of the child until the child reaches age 22, if the child is not a ward of the state. The parent(s) must be notified of any transfer of rights.

NOTE: The school district must provide any notice required under the procedural safeguards section to both you and your child.

### ***What are your rights concerning education records?***

Your rights to inspect and review your child's education records include the following:

- The right to get an explanation and interpretation from your school district or any agency performing a required school service;
- The right to have your representative inspect and review the education records; and
- The right to receive copies of the education records if not having copies would prevent you from exercising your right to inspect and review the educational records (e.g., if you lived in a different state and could not physically get to the school).

Your written consent must be obtained before the release of your child's education records or your child's personally identifiable information to individuals other than authorized employees of participating agencies, unless the disclosure is authorized without parental consent under 34 CFR Part 99, the Family Educational Rights and Privacy Act (FERPA).

Consent is required as follows:

- Parental consent, or the consent of an eligible child who has reached age 18, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.
- If a child is enrolled or is going to enroll in a nonpublic school that is not located in the school district of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the school district where the nonpublic school is located and officials in the school district of the parent's residence.

Personally identifiable information includes, but is not limited to:

- The name of your child, your name, or the name of another family member;
- Your child's address or your family's address;
- A personal identifier, such as your child's Social Security number or student number;
- A list of personal characteristics, or other information that would make it possible to identify your child; and
- Other information that would make the student's identifiable information easily traceable.

The school district may presume that you have the authority to inspect and review education records relating to your child, unless the school district has been advised that you do not have the authority under Ohio law governing such matters as guardianship, separation and divorce.

If education records include information on more than one child, you have the right to inspect and review only the information relating to your child, or to be informed of that specific information.

At your request, the school district must provide you with a list of the types and locations of all student education records collected, maintained or used by the district.

***What is the school district's general responsibility in protecting your child's education records?***

The school district must protect the confidentiality of your child's education records

and personally identifiable information at the collection, storage, disclosure and destruction stages. One official from the school district shall assume the responsibility for ensuring the confidentiality of this information. The school district must also provide training to all staff involved in collecting or using the information regarding the State's policies and procedures. Each district must maintain for public inspection a current listing of the names and positions of those employees within the district who have access to personally identifiable information.

The school district must keep a record of the parties obtaining access to education records (except access by parents and authorized employees of the school district). This record must include the name of the party, the access date and the purpose for which the party is authorized to use the records.

***What are your rights concerning the destruction of education records or information?***

The school district must inform you when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to your child. The information must be destroyed at your request. However, a permanent record of a student's name, address, telephone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

***How do I get my child's education records changed?***

If you believe that any information in your child's education records is inaccurate, misleading or violates the privacy or other rights of your child, you may ask the school district to change the information. The school district must decide whether to change the information within a reasonable amount of time.

If the school district refuses to change the information as you requested, you must be informed of the refusal and of your right to a records hearing (according to the Family Educational Rights and Privacy Act). The records hearing gives you a chance to challenge the information in the education records to ensure that it is not inaccurate, misleading or in

violation of the privacy or other rights of your child.

After the records hearing, if the school district agrees with you, it must change the information and let you know in writing. If the school district disagrees with you, you will be able to write a statement about your concerns. This statement will be placed in your child's education records, and must be kept by the school district as long as the records are kept. Anytime your child's records are shared, your statement must be included.

***What are the costs for reviewing your child's education records?***

The school district may not charge a fee to search for or to retrieve information.

A fee for copies of education records may be charged to you as long as the fee does not prevent you from exercising your right to inspect and review your child's education records.

**HOW TO RESOLVE CONFLICTS OR CONCERNS**

***If you have questions or concerns about your child's education, whom do you contact?***

The Ohio Department of Education is responsible for ensuring that children with disabilities receive FAPE in the least restrictive environment as defined by the *Individuals with Disabilities Education Improvement Act of 2004 (IDEA)* and corresponding federal regulations, state law and state rules.

Anyone who has a question or concern about the education of a child with identified or suspected disabilities is urged to first contact the appropriate personnel at the local school district where the child attends school. The personnel would include the child's teacher and building principal, followed by the administrator responsible for special education.

Other organizations that might be helpful in addressing your concerns are:

Ohio's Special Education Regional Resource Centers (SERRCs) (Your local school district has the address of the SERRC nearest you.)

The Ohio Coalition for the Education of Children with Disabilities  
Bank One Building  
165 W. Center Street, Suite 302  
Marion, OH 43302-3741  
(800) 374-2806

Ohio Legal Rights Service  
50 W. Broad Street, Suite 1400  
Columbus, OH 43215-5923  
(800) 282-9181 or (614) 466-7264

Procedural Safeguards  
Office for Exceptional Children  
Ohio Department of Education  
25 South Front St., Mailstop 202  
Columbus, Ohio 43215-4183  
(614) 466-2650

**RESOLVING DISAGREEMENTS**

***What happens when you disagree over identification, evaluation, placement or the provision of FAPE?***

There may be a time when you and the school district disagree. Many disagreements can be resolved by communicating with your child's teacher, principal or other school district personnel. There are also procedures established by state and federal rules and regulations to address your concerns including:

- Case conference,
- Administrative review,
- Mediation,
- Impartial due process hearing, and
- State complaint procedures.

However, you may choose to go directly to an impartial due process hearing or a state complaint. The school district also has this option of going directly to a hearing.

**Case conference**

A case conference is an informal procedure used to provide you and the school district with an opportunity to discuss and resolve issues related to the provision of appropriate educational services to your child. If you wish to have a conference with your child's teacher or other school staff members, call the principal of the building in which your child is enrolled.

## **Administrative review**

You have the right to present complaints to the superintendent regarding your child's evaluation and placement, and the provision of appropriate educational services to your child. The administrative review process is as follows:

- When the superintendent receives your written request, you will be contacted to set up a meeting, without undue delay, and at a mutually convenient time and place (not necessarily at the school building).
- You and the school district have the right to invite others to participate in the administrative review, including legal counsel.
- Every effort should be made to resolve any disagreements at the administrative review.
- The superintendent shall notify all parties, in writing, of his or her decision within 20 days after the review.

## **MEDIATION**

### ***What is mediation?***

Mediation is a voluntary process for resolving disputes between two parties. In order for mediation to occur, both parties must agree to mediate their concerns before the initiation of the mediation process. The mediation process is facilitated by a trained impartial third party, the mediator, who helps the parties communicate their concerns in an effort to reach a mutually acceptable solution. The proceedings of the mediation are confidential and therefore cannot be used in any future hearing or subpoenaed in a court of law. Mediation is authorized by 34 C.F.R. Section 300.506.

### ***What are the benefits of mediation?***

- Parents and school district officials jointly develop the final agreement rather than an outside individual.
  - Parties work together and are in control of the outcome.
  - A mutual agreement reached by both parties results in greater satisfaction for all parties.
  - Mediation provides an opportunity for parties to understand differing points of view.
  - Mediation is less costly and disputes are resolved quicker than in traditional legal procedures.
- Written agreements reached through mutual resolution frequently result in higher rates of compliance.

### ***What should I know about mediation?***

The following points are important to know about mediation:

- Mediation cannot deny or delay your right to a due process hearing or any other rights under IDEA.
- Discussions occurring during the mediation shall be confidential and may not be used as evidence in any impartial due process hearing or civil proceeding.
- No part of the mediation shall be electronically recorded.
- The mediator may not be an employee of a school district or state agency that is providing direct service to students.
- If the mediator otherwise qualifies, he/she cannot be eliminated solely because he/she is paid by the agency.
- The mediator must not have a personal or professional conflict of interest.
- Both you and the school district must be involved in selecting the mediators and agree with the selection.
- The Ohio Department of Education maintains a list of qualified mediators who are knowledgeable in laws and regulations relating to the provision of special education and related services.
- The mediator may not be called as a witness in future proceedings.
- The school district or designated agency involved in the disagreement shall send a representative who has the authority to commit resources.
- If the mediation agreement requires a change(s) in your child's IEP, an IEP meeting shall be held within 20 days, or as agreed to in the mediation agreement.
- If the dispute is resolved, each party shall receive a signed copy of the mediation agreement at the end of the meeting.
- If you requested a due process hearing or filed a formal written complaint and an agreement is reached during the mediation, you must withdraw your request for the due process hearing or request for a complaint investigation. This withdrawal could be part of the mediation agreement or recorded on a separate form provided by the mediator.

- If an agreement is reached, the school district and the parent will implement all terms of the agreement.
- The state shall bear the cost of the mediation process including costs of meeting.

***How do I request mediation?***

Mediation is available under the following conditions:

- Mediation is available without the need to request a due process hearing or file a formal complaint.
- Mediation is also available when filing for a due process hearing or when filing a formal complaint. Whenever a request for a due process hearing is made by either party, the Office for Exceptional Children will make an offer of mediation to both parties. Mediation is provided at no cost to both parties.
- Once both parties agree to mediation, the Office for Exceptional Children will assign a mediator.
- The mediator will contact both parties to set up the date, time, and location of mediation.

***Whom can I contact to request mediation or obtain additional information?***

You may contact the:  
 Ohio Department of Education  
 Office for Exceptional Children  
 Procedural Safeguards  
 25 South Front St., 2<sup>nd</sup> Floor  
 Mail Stop #202  
 Columbus, Ohio 43215-4183  
 Office: (614) 466-2650  
 Fax: (614) 728-1097  
 ODE Toll Free: (877) 644-6338

***Is the mediation agreement a binding agreement?***

If a resolution is reached to resolve the dispute through the mediation process, the parties shall execute a legally binding written agreement that sets forth such resolution and that:

- States that all discussions that occurred during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding;

- Is signed by both the parent and a representative of the agency who has the authority to bind such agency; and
- Is enforceable in any state court of competent jurisdiction or in a district court of the United States.

**NOTE:** A school district may establish procedures to offer to parents and schools that choose not to use the mediation process, an opportunity to meet with an impartial person who is under contract with Ohio's parent training and information center (see page 22) or another appropriate dispute resolution organization. This person would explain the benefits of the mediation process and encourage the parents to use it. The meeting would be held at a time and location convenient to the parents. The state shall bear the cost of this meeting. The school district may not deny or delay a parent's right to a due process hearing if the parent fails to participate in this meeting.

**Can you get attorneys' fees paid for mediation?**

In the case of mediation, the school district is not responsible for payment of your attorneys' fees unless stated as part of the mediation agreement.

**General Inquiry**

An inquiry can be in the form of a telephone call, letter, e-mail or fax. An inquiry is asking for information about the Office for Exceptional Children's (OEC) complaint procedures, copies of rules and regulations, clarification of an issue or a referral to the correct person in the district, agency or organization. A general inquiry is not a complaint.

Inquiries about the public education of a child with a disability may be submitted to the Ohio Department of Education at the following address:

Office for Exceptional Children  
 Assistant Director  
 Procedural Safeguards  
 25 South Front St., 2nd Floor  
 Columbus, OH 43215-4183  
 (614) 466-2650

## COMPLAINT PROCEDURES

### Introduction

#### ***What does the complaint process do?***

The complaint process provides a remedy for a violation of Part B of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA). This process allows for the prompt resolution of complaints at no cost to either the complainant or the district and may be considered less adversarial than a due process hearing.

#### ***Where do you file a complaint?***

Send all complaints to the following address:

The Ohio Department of Education  
Office for Exceptional Children  
Procedural Safeguards Section  
25 South Front St., Mail Stop 202  
Columbus, OH 43215  
Toll free: 1-877-644-6338;  
Local number: (614) 466-2650

\*Preschool complaints must be submitted to the Office for Exceptional Children at the address above. The preschool complaints will, however, be investigated by The Office of Early Learning and School Readiness in collaboration with the Office for Exceptional Children.

### Authorization/Regulations

#### ***What is the federal regulation that gives the state authority to have a complaint process?***

The authority for the processing of complaints by a state agency is conferred at federal regulations 34 C.F.R. §300.151-§300.153 *Adoption of State Complaint Procedures*.

### General Requirements

#### ***How do I file a complaint?***

A signed written complaint may be filed by any party, including an individual or organization. Signed written complaints may also be filed by an individual or organization from another state. The signed, written complaint must be sent to the Ohio Department of Education, Office for Exceptional Children to the address on the front of these complaint procedures. The OEC will not accept:

- Faxed complaints;
- Complaints sent via email; or
- Anonymous complaints.

#### ***Do I have to forward my complaint to the district?***

Yes, as per 34 CFR §300.153 (c), a copy of the complaint must be sent, by the complainant, to the superintendent of the school district against whom the complaint is being filed.

#### ***Who can file a complaint?***

A parent, organization or third party may file a complaint with the OEC. If a complaint is filed by a third party (other than the parent) please see "What is the Letter of Findings?" sub-letter "C" below.

#### ***What does my complaint have to include?***

The complaint must include:

- A statement that the public school district has violated a requirement of federal and/or state laws(s) and/or regulations that apply to special education.
- The facts on which the statement is based. A fact is defined as an actual event(s) or occurrence(s) that has taken place. This includes an explanation of the issue and the date that the issue occurred;
- An original signature and contact information for the complainant;
- A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed. Please note that your proposed resolution will be taken into consideration; however, the final resolution of the complaint will be determined by the Ohio Department of Education, Office for Exceptional Children. If alleging a violation with respect to a specific child, also include:
  - The name or names of the children involved in the complaint;
  - The address of the child;
  - The address of the complainant (if different from the child's address);

In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), include:

- Available contact information for the child;

- Name of the school the child is attending;
- Complaint must allege a violation that occurred not more than one year prior to the date the complaint is received;
- Party filing the complaint must forward a copy of the complaint to the district serving the child at the same time the party files the complaint with the OEC.

***What is sufficiency?***

In order for a complaint to be sufficient, the complaint which you file must include the information under the heading “What does my complaint have to include?” If your complaint does not include the necessary information under “What does my complaint have to include?” the OEC may deem your complaint “insufficient”, in whole, or in part. The issue of sufficiency will be determined by the Ohio Department of Education, Office for Exceptional Children.

***What happens when my complaint is deemed insufficient in whole?***

If your complaint is deemed insufficient in whole, the complaint will be closed and an insufficiency letter will be sent to you with an explanation as to why the whole complaint was deemed insufficient. The insufficiency letter will include an explanation of the information that is needed from you to make the complaint sufficient. After you receive the insufficient letter, you may include the information that was missing and re-file the complaint. The re-filed complaint must allege a violation that occurred not more than one year prior to the date the re-filed complaint is received by OEC.

***What happens when my complaint is deemed insufficient in part?***

Your complaint may be deemed insufficient in part if it is missing a fact (defined in “What does my complaint have to include?” above) or another element.

***What if my complaint is missing a fact?***

If the complaint, in whole or in part, is missing a fact the complaint will be deemed insufficient on the issue where the fact does not appear. The part of the complaint that does not include a fact will not be investigated. If the complaint includes

other issues that do include facts, those issues will be investigated, if it falls within the authority of the OEC. Please note that sufficiency will be determined by the Ohio Department of Education, Office for Exceptional Children.

***What if my complaint is missing another element other than a fact?***

The OEC will employ a “five day rule.” If the complaint is missing an element other than a fact, the complainant will have five calendar days to forward the element in writing to the educational consultant assigned to the complaint. The educational consultant assigned to the complaint will contact the complainant and inform the complainant that an element is missing. The complainant will then have five days from the point of contact with the educational consultant to forward the necessary information to the educational consultant. If the missing element is not forwarded to the educational consultant assigned to the complaint within five days the complaint will be closed.

***Who determines if the issues in the original complaint will be investigated?***

The OEC will determine the issues and whether the issues will be investigated.

***Who determines the legal citation?***

The OEC will determine which law has been allegedly violated and which legal citation will be used in the investigation.

***How do I know that the OEC has received my complaint?***

Within five business days of OEC’s receipt of the written, signed complaint the person filing the complaint will be sent an acknowledgment letter. The letter will also be sent to the following parties if different from the person filing the complaint:

- The parent/guardian;
- The student, if the student has reached the age of majority; and
- The superintendent of the school district.

***What does the acknowledgement letter include?***

The acknowledgment letter will include the following information:

- Notice of the date that the OEC received the complaint;
- Identification of the assigned educational consultant who will investigate the complaint;
- Notice of an opportunity for the parties or, as appropriate, a third party complainant to provide additional information;
- Notice that a Letter of Findings will be issued within 60 calendar days of the date OEC receives the complaint unless an extension is granted in which case the letter of findings will be issued on the date named in the extension letter. If the complaint is held in abeyance pending the outcome of a due process hearing the 60-day timeline will commence upon the date that the hearing officer issues his/her decision and OEC determines that the hearing officer's decision does not address all of the complaint issues or upon withdrawal or dismissal of the due process request; and
- Notice of the opportunity for the parties to engage in mediation of the complaint.

\* If legal counsel represents either party it will be each party's counsel's responsibility to communicate with the educational consultant and request that copies of all correspondence are forwarded to legal counsel.

***Can the district offer a proposal to the parent to resolve the complaint prior to the OEC issuing a letter of findings?***

Yes, the district may offer the parent a proposal to resolve the complaint prior to the letter of findings being issued (please see "What is a Letter of Findings" below).

***Can the parties involved in a complaint mediate the complaint issues using OEC mediators?***

Yes, if you wish to mediate the issues which are in your complaint using an OEC mediator please notify the educational consultant assigned to the complaint.

NOTE: The word "party" or "parties" as used in this document and for the purpose of mediation

related to a complaint, refer to the parent/guardian, student (if the student has reached the age of majority), the superintendent of the school district and the special education director or coordinator. The word "complainant" is used to denote any person or entity not included in the definition of "party" or "parties."

***What happens in a complaint investigation?***

The OEC shall conduct an investigation of the complaint which shall include a review of all relevant documentation and may include an on-site investigation.

The Letter of Findings will be issued within 60 calendar days from the date the written and signed complaint was received by OEC. As per 34 CFR §300.152 (b)(1), an extension of time maybe granted by the Ohio Department of Education, Office for Exceptional Children when it can be established that exceptional circumstances warrant a delay, including a mediation or alternative means of dispute resolution. Exceptional circumstances will be determined by the Ohio Department of Education, Office for Exceptional Children on a case-by-case basis.

If the complaint is also the subject of a due process hearing or if the complaint contains multiple issues of which one or more are part of a due process hearing, OEC will hold the complaint or those complaint issues, which are part of the due process hearing, in abeyance until the end of the due process hearing. When the due process hearing officer issues a decision, or the hearing is withdrawn or dismissed, the complaint issues will be reviewed. If there are complaint issues, which were not addressed, in the hearing process, those issues will be investigated within a 60-day timeline beginning on the date the hearing officer issues a final decision or the due process request is withdrawn or dismissed.

Upon completion of the investigation, OEC will determine whether the district complied with the applicable special education laws and regulations. Determination of compliance or noncompliance on each issue shall be based upon the facts and applicable law, regulations or standards. The OEC shall notify the parties, in writing, of the findings and the basis for such findings.

### ***What is a letter of allegations?***

The Letter of Allegations identifies the alleged issues found in the complaint letter and will also outline the required documentation the district will need to provide in order to assist OEC in making a determination of compliance or noncompliance. The parent/guardian, third party complainant, and the student, if the student has reached the age of majority, may also provide by the stated due date any relevant documentation. The letter will specify the date by which all documentation must be submitted.

The original Letter of Allegations is sent to the district superintendent with a copy sent to the parent/guardian and the student, if the student has reached the age of majority as well as a third party complainant, if applicable.

### ***What is the Letter of Findings?***

The Letter of Findings restates the alleged issues, summarizes the facts provided by both parties related to the alleged issue and draws a conclusion as to whether or not the district is in compliance or not in compliance regarding the alleged issue. The Letter of Findings will outline the corrective action required by the district to address any out of compliance behavior as well as whether or not the district will engage in any further inquiry activity.

The OEC sends a Letter of Findings simultaneously to the parent/guardian, the student who has reached the age of majority, and the superintendent of the district.

If a third party complainant filed the complaint, the third party complainant will receive a letter informing them that OEC has concluded their complaint investigation. Personally identifiable information about the student may be released to a third party complainant or other person or entity only with the written consent of the parent or as authorized by IDEA, the Family Educational Rights and Privacy Act (FERPA), or state law.

The Letter of Findings summarizes the complaint issues and results of OEC's investigation. Per C.F.R. 34 §300.151-§300.153, the Ohio Department of Education, Office for Exceptional Children, issues a written decision that addresses the following:

- If the district is found in compliance, the complaint file is closed.
- If the district is found in noncompliance, the Letter of Findings shall specify the required corrective action(s) to be taken by the district. The complaint file remains open until corrective action is completed. All corrective action is to be completed within one year from the date of the letter of findings except if exceptional circumstances exist that would require a longer period of time. This determination will be made on a case by case basis by OEC.

OEC reviews the district's corrective action for compliance. Once the corrective action is resolved to the satisfaction of the Ohio Department of Education, OEC will close the complaint.

If the district does not comply with the complaint process or the corrective action, sanctions, as appropriate will be implemented by OEC.

## **DUE PROCESS**

### ***What is an impartial due process hearing?***

An impartial due process hearing is a formal, administrative procedure that is held to resolve disagreements. Disagreements may be about the identification, evaluation or placement of your child, or the provision of a free appropriate public education (FAPE) to your child. An impartial due process hearing may be requested by parents, the school district or other public agencies (e.g., county boards of mental retardation and developmental disabilities, developmental centers, and the Department of Youth Services).

An impartial hearing officer (IHO) will conduct the hearing. The IHO cannot be an employee of the school district, Ohio Department of Education, or any public agency involved in the education or care of your child. Also, the IHO cannot have a personal or professional interest that may interfere with his or her objectivity. The cost of the hearing officer is paid by the school district. However, the hearing officer is not considered an employee of the school district solely because he or she is paid by the school district to serve as a hearing officer.

In Ohio, a hearing officer must be an attorney and is required to complete periodic training

provided by ODE. The state and local school district maintains a list of hearing officers and their qualifications. Each public agency shall also keep this list.

***How do I request an impartial due process hearing?***

You request a due process hearing by filing a due process complaint notice and hearing request. Your request must be in writing, and the request must be sent to the superintendent of the child's district of residence and a copy sent to Procedural Safeguards, Office for Exceptional Children, Ohio Department of Education, 25 South Front St., 2nd Floor, Columbus, Ohio 43215-4183; (614) 466-2650; fax (614) 728-1097. The due process complaint notice shall:

- Provide your child's name;
- State the address of the residence of the child;
- State the name of the school the child is attending;
- In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), provide the available contact information for the child and the name of the school the child is attending;
- Provide a description of the nature of the problem of the child relating to the proposed or refused initiation or change of the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child;
- Include the facts relating to the above-stated problem;
- Offer a proposed resolution to the problem to the extent known and available to you at the time.

The term "due process complaint notice" is used in the context of a due process hearing request. Whenever a due process complaint has been received, you must have an opportunity for an impartial due process hearing. You may complete and submit the ODE form "Due Process Complaint Notice and Request for a Due Process Hearing," or you may prepare and submit your own written due process complaint notice and request for a due process hearing. The use of the form is not required. The form is attached and is posted on ODE's Web site at

[www.ode.state.oh.us](http://www.ode.state.oh.us), keyword search: due process.

NOTE: You may not have a due process hearing until you, or the attorney representing you, files a due process complaint notice that includes all information required by federal regulation at 34 C.F.R. Section 300.508.

***Are there any limitations on the issues that I can raise at a due process hearing?***

You may not raise issues at the due process hearing that were not raised in your due process complaint notice, unless the other party agrees otherwise.

***May I file a separate due process complaint on an issue that I did not raise in a due process complaint that I already filed?***

Yes. You may file a separate due process complaint on an issue separate from a due process complaint that you already filed.

***What is the deadline for requesting an impartial due process hearing?***

You must request an impartial due process hearing within two years of the date you knew or should have known about the alleged action that forms the basis of your due process complaint notice, except that the timeline shall not apply to you if you were prevented from requesting the hearing due to:

- Specific misrepresentations by the school district that it had resolved the problem forming the basis of your due process complaint; or
- The school district's withholding of information from you that was required under this part to be provided to you.

***Will my due process complaint notice be sufficient to allow me to have a due process hearing? What happens if the school district believes my due process complaint notice is not sufficient?***

Your due process complaint notice shall be deemed to be sufficient to allow you to have a due process hearing unless:

- Within 15 days of receiving your due process complaint notice, the school district notifies the hearing officer and you in writing

that the school district believes your due process complaint notice has not met the requirements that apply to the complaint notice. (The school district should send a copy of its notification to Procedural Safeguards, Office for Exceptional Children, Ohio Department of Education, 25 South Front St., 2nd Floor, Columbus, Ohio 43215-4183; fax (614) 728-1097.

- The school district should contact Procedural Safeguards, Office for Exceptional Children, ODE, for the name of the hearing officer if the district has not already received this information from OEC (614-466-2650).
- Within five days after receiving this notification from the school district, the hearing officer shall determine whether your due process complaint notice on its face meets the requirements that apply to the due process complaint notice.
- After making this determination, the hearing officer shall immediately notify you and the school district in writing of his/her determination.

***What can I do if the district has filed a due process complaint notice and request for a due process hearing, and I believe the district's due process complaint notice is not sufficient?***

The district's due process complaint notice shall be deemed to be sufficient unless:

- Within 15 days of receiving the district's due process complaint notice, you notify the hearing officer and the district in writing that you believe the district's due process complaint notice has not met the requirements that apply to the complaint notice. (Send a copy of your notification to Procedural Safeguards, Office for Exceptional Children, Ohio Department of Education, 25 South Front St., 2nd Floor, Columbus, Ohio 43215-4183; fax (614) 728-1097.)
- Contact Procedural Safeguards, Office for Exceptional Children, ODE, promptly for the name of the hearing officer whom you must contact if you have not already received this information from OEC (telephone 614-466-2650).
- Within five days after receiving your notification, the hearing officer shall

determine whether the district's due process complaint notice on its face meets the requirements that apply to the due process complaint notice.

- After making this determination, the hearing officer shall immediately notify you and the school district in writing of his/her determination.

***May I amend my due process complaint notice?***

You may amend your due process complaint notice only if:

- The school district consents in writing to the amendment and is given the opportunity to resolve the due process complaint through a resolution meeting; or
- The hearing officer grants permission, except that the hearing officer may only grant such permission at any time not later than 5 days before a due process hearing occurs.

NOTE: If you file an amended due process complaint, the timelines for the resolution meeting and the time period to resolve the due process complaint begin again with the filing of the amended due process complaint.

***If the school district is the party filing the due process complaint, may the district amend its complaint?***

The school district may amend its due process complaint notice only if:

- You consent in writing to the amendment and are given the opportunity to resolve the due process complaint through a resolution meeting; or
- The hearing officer grants permission, except that the hearing officer may only grant such permission at any time not later than five days before a due process hearing occurs.

NOTE: If the school district files an amended due process complaint, the timelines for the resolution meeting and the time period to resolve the due process complaint begin again with the filing of the amended due process complaint.

***What will the school district do after it receives my due process complaint?***

If the school district has not sent a prior written notice to you regarding the subject matter contained in your due process complaint notice, the school district must, within 10 days of receiving your due process complaint, send to you a response that includes:

- An explanation of why the agency proposed or refused to take the action raised in the complaint;
- A description of other options that the IEP team considered and the reasons why those options were rejected;
- A description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and
- A description of the other factors that are relevant to the school district's proposed or refused action.

SUFFICIENCY: A response by the school district shall not be construed to preclude the school district from asserting that your due process complaint notice was insufficient, where appropriate.

Upon receipt of your request, the school district will provide you with a copy of *Whose IDEA Is This? A Resource Guide for Parents*.

If the school district requests an impartial due process hearing, you will receive written notice and a copy of *Whose IDEA Is This? A Resource Guide for Parents*.

After an impartial due process hearing is requested:

- You will be told about the availability of mediation and will be provided with information about mediation.
- If you requested the due process hearing, the school district will convene a resolution meeting as discussed in detail below.
- The Office for Exceptional Children will send you and the school district a list of the names of three impartial due process hearing officers and their qualifications.
- You and the school district will have the opportunity to agree upon an impartial due process hearing officer. If you agree, the school district will contact the Office for

Exceptional Children with the name of the agreed-upon impartial due process hearing officer.

- If you and the school district do not agree upon an impartial due process hearing officer, the school district must notify the Office for Exceptional Children immediately. The Office for Exceptional Children will then appoint an impartial due process hearing officer from the list that you received.
- If, within 10 days of the certified mailing of the list of hearing officers, the Office for Exceptional Children does not receive notification that you and the district have agreed upon a hearing officer named on the list, the Office for Exceptional Children will appoint a hearing officer from the list.
- If you or the school district requests a hearing, the school district shall inform you of any free or low-cost legal or other relevant services available in your area.
- Arrangements for the location, date, and time of the impartial due process hearing will be made by school district personnel.
- At least five business days before the impartial due process hearing, each party must disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing. If any party fails to comply with this requirement, the hearing officer may bar that party from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.
- An impartial due process hearing will be held and a decision will be mailed to each of the parties. The school district must ensure that this happens within 45 days after the end of the resolution period, unless a specific extension of time beyond the 45 days has been requested, in writing, by either you or the school district and granted by the IHO.
- The decision made at an impartial due process hearing is final unless an appeal is filed by you or the school district within 45 days of notification of the decision.

***If the school district is the party filing the due process complaint, what must I do when I receive a copy of the district's due process complaint?***

Within 10 days of receiving the school district's due process complaint, you must send to the school district a response that specifically addresses the issues raised in the school district's due process complaint notice.

***What does the resolution meeting involve?***

If you requested the due process hearing, a resolution session will take place.

RESOLUTION MEETING: Prior to the initiation of a due process hearing, the school district shall convene a meeting with you and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in the complaint as follows:

- The meeting must be held within 15 days (7 days if expedited request) of receiving notice of your due process complaint.
- The meeting must include a representative of the public agency who has decision-making authority on behalf of that agency.
- The meeting may not include an attorney of the school district unless you are accompanied by an attorney.
- The purpose of the meeting is for you to discuss your due process complaint, and the facts that form the basis of the complaint, so that the school district has the opportunity to resolve the dispute that is the basis for the complaint, unless you and the school district agree in writing to waive such a meeting or agree to use the mediation process described in the mediation section of this guide.

***If the school district requests a due process hearing, is the district required to convene a resolution meeting, and is there a 30-day resolution period before the timeline for issuing a hearing decision begins?***

No. When a school district requests a due process hearing, there is no requirement for a resolution meeting and a 30-day resolution period. Therefore, if a district requests a due process hearing, the timeline for issuing a hearing decision begins when you receive notice

of the district's due process complaint. Within 45 days after you receive notice of the school district's due process complaint, the hearing must be held, a hearing decision reached, and a copy of the decision mailed unless an extension of the timeline has been granted by the hearing officer at the written request of either party.

***If my complaint is resolved at the resolution meeting, what is the next step?***

WRITTEN SETTLEMENT AGREEMENT: If a resolution to the dispute is reached at the resolution meeting, you and the school district must execute a legally binding agreement that is:

- Signed by you and a representative of the school district who has the authority to bind the school district; and
- Enforceable in any state court of competent jurisdiction or in a district court of the United States.

REVIEW PERIOD: If you and the school district execute a written settlement agreement, either you or the school district may void the agreement within three business days of the agreement's execution.

***What happens if my complaint is not resolved through the resolution session?***

If the school district has not resolved the complaint to your satisfaction within 30 days of the receipt of the due process complaint, the due process hearing may occur, and all of the applicable timelines for a due process hearing (45 days) shall commence, unless an adjustment to the 30-day resolution period applies.

***What happens if I do not participate in the resolution meeting?***

Unless you and the school district have jointly agreed to waive the resolution process or to use state mediation, your failure to participate in the resolution meeting will delay the timelines for the resolution process and the due process hearing until the meeting is held.

***What happens at the end of the resolution period if I do not participate in the resolution meeting?***

If the school district is unable to obtain your participation in the resolution meeting after reasonable efforts have been made (and documented), the school district may, at the conclusion of the 30-day period (15 days if expedited request), request that a hearing officer dismiss your due process complaint.

***What happens if the school district fails to convene the resolution meeting or fails to participate in the resolution meeting?***

If the school district fails to convene the resolution meeting within 15 days (7 days if expedited request) of receiving notice of your due process complaint or fails to participate in the resolution meeting, you may seek the intervention of the hearing officer to begin the 45-day due process hearing timeline.

***When does the 45-day due process hearing timeline begin?***

When you request a due process hearing, the 45-day due process hearing timeline begins at the end of the 30-day resolution period, except that the 30-day resolution period shall be adjusted and the 45-day timeline shall begin after one of the following events:

- Both parties agree in writing to waive the resolution meeting;
- After either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible; or
- If both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or the school district withdraws from the mediation process.

***If the due process hearing goes forward, what are my rights?***

If you are involved in an impartial due process hearing, you have the right to:

- Have the child who is the subject of the hearing present;
- Open the hearing to the public;
- Be accompanied and advised by counsel and by individuals with special knowledge or

training with respect to the problems of children with disabilities;

- Present evidence and confront, cross-examine, and compel the attendance of witnesses;
- Prohibit the introduction of any evidence at the hearing that has not been disclosed to you at least five business days before the hearing;
- Obtain a written, or at your option, electronic, verbatim record of the hearing;
- Obtain written, or at your option, electronic findings of fact and decisions; and
- Have the record of the hearing and the findings of fact and decisions provided to you at no cost to you.

***How will the hearing officer make his/her decision?***

IN GENERAL: Subject to the procedural issues provision below, a hearing officer's determination of whether a child received a free appropriate education (FAPE) must be made on substantive grounds.

PROCEDURAL ISSUES: In matters alleging a procedural violation, a hearing officer may find that your child did not receive a FAPE only if the procedural inadequacies:

- Impeded your child's right to a FAPE;
- Significantly impeded your opportunity to participate in the decision-making process regarding the provision of a FAPE to your child; or
- Caused a deprivation of educational benefits.

RULE OF CONSTRUCTION: Nothing in this provision shall be construed to preclude a hearing officer from ordering a school district to comply with procedural requirements.

RULE OF CONSTRUCTION: Nothing pertaining to the hearing shall be construed to affect your right to file an appeal with the Ohio Department of Education.

***What is your child's status during due process proceedings?***

- Unless your child is in an interim alternative educational setting (IAES), while you are waiting for the decision of a due process

hearing, review, or judicial proceeding, your child must remain in his or her current educational placement unless you and the state or the school district agree otherwise. This is referred to as "stay-put."

- If the due process complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school until the completion of all the proceedings.
- If the complaint involves an application for initial services under Part B from a child who is transitioning from Part C to Part B and is no longer eligible for Part C services because the child has turned three years of age, the public agency is not required to provide the Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education and related services, then the public agency must provide those special education and related services that are not in dispute between the parent and the public agency.
- If the hearing officer in a due process hearing or a state level review officer in a state level review agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between the State and the parents for purposes of stay-put under bullet one above.

### ***What if you or the school district disagree with the decision?***

If you or the school district disagree with the decision made by a hearing officer, either party aggrieved may appeal to the Ohio Department of Education in writing. The letter of appeal must be sent to the State Board of Education in care of Procedural Safeguards, Office for Exceptional Children, Ohio Department of Education within 45 days of notification of the hearing officer's decision. Upon receipt of the letter of appeal, the Ohio Department of Education will appoint a state level review officer (SLRO) to conduct an impartial review of the hearing officer's decision. The SLRO:

- Examines the entire impartial due process hearing record;
- Ensures that the procedures at the impartial due process hearing were consistent with the requirements of due process;

- Seeks additional evidence, if necessary. If a hearing is held to receive additional evidence, the impartial due process hearing rights apply (See page 33);
- May grant specific extensions of time if you or the school district make a request;
- Makes an independent decision on completion of the review.

The state shall ensure that an independent decision is reached in a state-level review of an appeal and that a written copy or electronic word-for-word record, at your option, of the findings and decision is mailed to all parties within 30 days after the receipt of a request for an appeal, unless either party requests an extension of this timeline and that extension is granted, in writing, by the SLRO. The decision made by the SLRO is final. However, if you are still not satisfied with the findings and decision made in a state-level review, you have the right to bring a civil action in state or federal court without regard to the amount in controversy.

You may bring a civil action:

- In a district court of the United States within 90 days from the date of the decision of the state level review officer; or
- In the court of common pleas of the county in which the child's school district of residence is located within 45 days of notification of the order of the state level review officer.

In any civil action, the court:

- Receives the records of the administrative proceedings;
- Hears additional evidence at the request of a party; and
- Basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate.

### ***Do I pay for my own attorneys' fees?***

You are responsible for paying your own attorney and expert witness costs. However, if you prevail in any action or proceeding with respect to a due process hearing, you have the right to request that the court grant reasonable attorneys' fees as part of the decision. The court will determine the amount.

In addition to parents who are the prevailing party, the following prevailing parties may also qualify for attorney fees. The court, in its discretion, may award reasonable attorneys'

fees as part of the costs to the following additional parties:

- To a prevailing party who is a state educational agency or school district/LEA against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, without foundation; or
- To a prevailing state educational agency or school district/LEA against the attorney of a parent, or against the parent, if the parent's request for a due process hearing or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

*Meeting of IEP Team; Resolution Meeting*

Attorney's fees may not be awarded relating to any meeting of the IEP team unless the meeting is convened as a result of an administrative proceeding or judicial action, or at the discretion of the state for a state mediation. A resolution meeting shall not be considered: (a) a meeting convened as a result of an administrative hearing or judicial action; or (b) an administrative hearing or judicial action for purposes of attorney fees.

*Part B Funds*

Funds under Part B of the IDEA may not be used to pay attorneys' fees or costs of a party related to any action or proceeding under Section 615 of IDEA and subpart E of the federal regulations at 34 C.F.R. Part 300. The preceding prohibition does not preclude a public agency from using funds under Part B of IDEA for conducting an action or proceeding under Section 615 of IDEA.

*No Bonus or Multiplier*

No bonus or multiplier may be used in calculating the amount of attorneys' fees awarded by the court.

***Are there times when the court may not give you attorneys' fees for services performed after a written settlement offer?***

Yes, attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under section 615 of IDEA for services performed subsequent to the time of a written offer of settlement to you if:

- The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins;
- You did not accept the offer within 10 days; and
- The court or administrative hearing officer finds that the relief finally obtained by you is not more favorable to you than the offer of settlement.

*Exception:* You may be awarded attorneys' fees and related costs if you are the prevailing party and you were substantially justified in rejecting the settlement offer.

***Are there times when the court may reduce the amount of attorneys' fees for services performed after a written settlement offer?***

Yes, if:

- You or your attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;
- The amount of your attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;
- The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or
- The attorney representing you did not provide to the school district/LEA the appropriate information in the due process request notice in accordance with 34 C.F.R. Section 300.508.

*Exception:* The above provisions on reduction of attorneys' fees do not apply in any action or proceeding if the court finds that the State or the school district/LEA unreasonably protracted the

final resolution of the action or proceedings or there was a violation of Section 615 of IDEA.

### ***How can I obtain additional information about due process?***

For additional information about due process:

- Refer to Section 615 of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), Public Law 108-446, 108<sup>th</sup> Congress, enacted December 3, 2004 (H.R.1350) and effective July 1, 2005, 20 U.S.C. 1415; federal regulations at 34 Code of Federal Regulations (CFR) Sections 300.507-300.518; Sections 3323.04 and 3323.05 of the Ohio Revised Code and Rules 3301-51-05 and 3301-51-08 of the Ohio Administrative Code (*Operating Standards for Ohio's Schools Serving Children with Disabilities*).
- Contact Procedural Safeguards, Office for Exceptional Children, ODE, 25 S. Front St., Columbus, Ohio 43215-4183; (614) 466-2650.

## **DISCIPLINE**

The terms *discipline* and *punishment* are often used interchangeably referring to the practice of improving behavior. Contrary to popular use, however, the two do not have the same meaning. In fact, they oppose each other both in method and result. Understanding the difference is important for successful classroom management and effective parenting. This understanding will help educators and parents promote more cooperative, responsible, safe and healthy behavior for all students.

**Punishment**, simply, is a "quick fix." Punishment often does not solve a problem and, used in isolation, stops only the immediate behavior. Punishment requires little change in beliefs on the child's part and generally has no instructional value. Punishment will not change behavior long term because the basic need causing the behavior has not been met. Punishment focuses on the action, not the cause. It generally results in a child's anger, disrespect, revenge or defeat.

**Discipline**, however, is an approach to changing behavior through planning, teaching and evaluating. Effective discipline provides appropriate, logical consequences for behavior

and results in long term and positive behavioral changes. True discipline does not focus on isolated behaviors, but is a learning process that provides the child with a variety of skills to be an effective learner. Discipline addresses the cause of the behavior and helps to create a safe, positive learning environment for all.

Discipline is firm, fair and appropriate to the behavior. It takes commitment, planning and ongoing problem solving.\*

\* Excerpts from: *Strategies for Developing a Comprehensive Classroom Management System*

### ***When would removal of a child with a disability count as suspension?***

A suspension is any time that your child is not being provided FAPE due to a disciplinary action. Examples may include:

- A formal suspension;
- An emergency removal;
- Asking you to pick up your child prior to the end of the regular school day;
- A bus suspension if transportation is a related service on the IEP and there is no alternative transportation provided. (NOTE: If your child attends school during a bus suspension, then those days do not count as days of suspension from school.) If transportation is not a related service, it is your responsibility to get your child to school;
- An in-school suspension when special education services are not being provided. If your child's IEP is being followed, the in-school suspension does not count toward the 10 days; or
- Removal of your child from his/her normal setting at school to another location where your child's IEP is not being implemented (i.e., the office) for long periods of time or for repeated times.

### ***If my child is suspended, when would it be considered a change of placement?***

It would be considered a change of placement when:

- The suspension is more than 10 consecutive school days; or
- Your child is subjected to a series of removals that constitute a pattern because

they add up to more than 10 school days in a school year, and because of factors such as the length of each removal, the total amount of time your child is removed, and the proximity of the removals to one another.

***Who determines that a suspension is a change of placement?***

School personnel make the determination that a pattern of removals constitutes a change of placement on a case-by-case basis. You have the right to challenge the school's decision by asking for an expedited due process hearing (see page 41).

***How is a manifestation determination review conducted?***

When a suspension is considered a change in placement, immediately, if possible, but in no case later than 10 school days after the day the decision was made to suspend, school district personnel, the parent and relevant members of the IEP team (as determined by the parent and the school district) must conduct the review to decide if your child's behavior is a result of his/her disability. This review could take place at the same IEP meeting held to conduct a functional behavioral assessment. The team shall review all relevant information in the student's file including:

- Testing (evaluation and diagnostic results);
- Relevant information supplied by you;
- Observations of the child by a teacher; and
- The current IEP and placement.

When considering the behavior subject to disciplinary action, the school district personnel, the parent and relevant members of the IEP team (as determined by the parent and school district personnel) must then determine:

- If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- If the conduct in question was the direct result of the school district's failure to implement the IEP.

If either of the above statements is true, then the behavior is a manifestation of your child's disability. The district is required to give your child's special education and disciplinary records to the person(s) in the district who will make the final decision on what disciplinary action takes place.

If the behavior is not a manifestation of your child's disability, your child can be suspended for the same length of time as any other child. Your child will continue to receive educational services so as to provide your child a free appropriate public education (FAPE), which will enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP. The IEP team determines the interim alternative educational setting (IAES) and what services will be provided.

If the behavior is a manifestation of your child's disability, the IEP team shall immediately make changes that are necessary to correct the IEP, your child's placement, or how the IEP/placement is carried out.

NOTE: School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability who violates a code of student conduct.

***What happens if I disagree with the manifestation determination?***

You may request an expedited due process hearing to challenge the decision (see page 41). The hearing officer shall decide if the school district has shown that your child's behavior was not a manifestation of his/her disability as outlined on this page, and consistent with requirements above.

***What if my child with a disability is suspended for breaking the school rules (Code of Conduct) for more than 10 days for the school year or for a series of removals that is a change of placement?***

Not later than the day the decision is made to suspend your child as specified above, the school must:

- Notify you of the decision to remove your child;
- Provide you with a copy of *Whose IDEA Is This?*; and
- Follow standard suspension/expulsion procedures.

School district personnel, the parent and relevant members of the IEP team (as determined by you and the school district) shall:

- Conduct a manifestation determination review within 10 school days of the decision to suspend (See manifestation determination questions above);
- Develop and implement a behavior assessment plan within 10 business days if a functional behavioral assessment has not been completed and develop a behavioral intervention plan as soon as possible if one has not been implemented.

OR

If a behavioral intervention plan has already been developed,

- Review the behavior plan and make changes as necessary to address the behavior; and
- Decide what educational services are necessary to enable your child to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the IEP.

***What if the manifestation determination review determines that my child's behavior is a result of his/her disability when my child with a disability is suspended for breaking the school rules (Code of Conduct) for more than 10 days for the school year or for a series of removals that is a change of placement?***

If the behavior is a result of your child's disability, your child will return to the placement from which he or she was removed, unless the parent and the school district agree to a change of placement as part of the modification of the behavioral intervention plan.

NOTE: School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability who violates a code of student conduct.

***What if the manifestation determination review determines that my child's behavior is NOT a result of his/her disability when my child with a disability is suspended for breaking the school rules (Code of Conduct) for more than 10 days for the school year or for a series of removals that is a change of placement?***

If the behavior is NOT a result of your child's disability, your child:

- May be removed to another setting or an interim alternative educational setting (IAES), as determined by the IEP team, in the same manner and for the same duration as would be applied to a child without disabilities;
- Will continue to receive educational services so as to enable your child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in your child's IEP.

***If my child with a disability already has been suspended for breaking the school rules (Code of Conduct) for more than 10 days for the school year, what happens when there are additional suspensions that are not a change of placement?***

After 10 days of suspension for a school year:

- If a functional behavior assessment has not been completed and no plan implemented, your child's IEP team must meet within 10 business days to develop an assessment plan. As soon as feasible after developing the plan and completing the assessments, the IEP team shall meet to develop and implement interventions, as appropriate.
- If a functional behavior assessment has previously been completed and behavior interventions developed, each IEP team member must review the behavior intervention plan and implementation to determine if modifications are necessary. There is no requirement to have an IEP meeting but any member, including you, can call for an IEP meeting to discuss possible changes to the behavior intervention plan and its implementation.
- There is no requirement for the IEP team to make a manifestation determination.
- School personnel, in consultation with your child's special education teacher, determine what services your child will receive and

where those services will be provided. The services must enable your child to appropriately progress in the general curriculum and appropriately advance toward achieving the IEP goals. You can challenge this decision by asking for an expedited hearing (see page 41).

***What happens when my child with a disability is suspended for 10 school days or less for the school year?***

Your child is subject to the same board of education policies that have been established for any student who is suspended from school.

There are no requirements for:

- A behavior assessment plan or the development of interventions;
- A manifestation determination; or
- Services for a suspension for a total of 10 school days or less during a school year.

However, the 10 days could be used by the IEP team to determine:

- If your child's IEP is appropriate;
- If your child's IEP is being followed;
- The need for an assessment plan to look at the function of your child's behavior; and
- The need for positive behavioral interventions, strategies and supports to address the behavior.

***What if my child carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the school district or knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises or at a school function under the jurisdiction of the school district or has inflicted serious bodily injury upon another person while at school, on school premises or at a school function under the jurisdiction of the school district?***

School personnel may remove your child to an interim alternative educational setting (see page 37) for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of your child's disability.

Not later than the day the decision is made to remove your child, the school district must:

- Notify you of the decision;
- Provide you with your procedural safeguards rights (*Whose IDEA Is This?*);
- Follow standard suspension/expulsion procedures; and
- Ensure that your child continues to receive a free appropriate public education (FAPE) so as to enable your child to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

School district personnel, the parent and relevant members of the IEP Team (as determined by the parent and school district personnel) must meet to:

- Conduct a manifestation determination review within 10 school days of the decision to suspend (See manifestation review questions above);
- Develop and implement a behavior assessment plan within 10 business days if a functional behavioral assessment has not been completed and develop a behavioral intervention plan if one has not been implemented.

OR

If a behavioral intervention plan has already been developed,

- Review the behavior plan and make changes as necessary to address the behavior; and
- Decide what educational services are necessary to enable your child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the IEP.

NOTE: School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability who violates a code of student conduct.

***What can the school district do if it believes that maintaining the current placement of my child is substantially likely to result in injury to others?***

If the school district believes that the current placement of your child is substantially likely to result in injury to others, the school district may:

- Convene an IEP meeting to review the IEP and address the concern that the student is

likely to cause injury to self or others. If you and the school district are in disagreement, the district may ask for an expedited due process hearing; OR

- Immediately ask for an expedited due process hearing without holding an IEP meeting; OR
- Pursue an injunction from a court or other relief as permitted by law. When an expedited due process hearing is requested by the school district, the school district shall:
- Notify you by telephone or fax of the request no later than the date on which the decision to take that action is made;
- Immediately send you a written copy of the request and all procedural safeguards (*Whose IDEA Is This?*);
- Convene an IEP meeting to
  - Conduct a manifestation determination review within 10 school days of the decision to suspend (See manifestation determination questions above);
  - Develop and implement a behavior assessment plan within 10 business days if a functional behavioral assessment has not been completed and develop a behavioral intervention plan if one has not been implemented.

OR

If a behavioral intervention plan has already been developed,

- Review the behavior plan, the results, and make changes as necessary to address the behavior; and
- Provide educational services so as to enable your child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in your child's IEP in an interim alternative educational setting (IAES) or in another appropriate placement ordered by the hearing officer.

### ***What if I disagree with the hearing officer's decision?***

You may appeal the decision of the hearing officer in writing to the State Board of Education c/o Office for Exceptional Children within 10 calendar days of receiving the written decision. Your child remains in the IAES for not more than 45 school days if ordered by the hearing officer. If at the end of 45 school days, school personnel

still believe your child is a danger to himself or others, they can request another expedited hearing.

### ***Who decides what the interim alternative educational setting will be and what services must be provided?***

The IEP team will determine the IAES when your child is removed from his/her current educational placement under special circumstances or for more than 10 school days and the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability.

**Special Circumstances** is defined as cases where a child:

- Carries or possesses a weapon to or at school, on school premises, or to or at a school function;
- Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function;
- Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function.

An IAES must:

- Allow your child to continue to progress in the general education curriculum although in another setting;
- Allow your child to continue to receive services and modifications as written on the IEP that will enable your child to achieve the goals on the IEP; and
- Provide your child with services and modifications designed to address the behavior so that it does not recur.

### ***How long can my child be in an IAES?***

Your child can be in an IAES for the same amount of time that a child without a disability would be subject to discipline, but not more than 45 school days for a drug or weapon offense or for inflicting serious bodily injury on another person.

***What if I disagree with the placement decision resulting from the disciplinary action?***

You may request an expedited due process hearing to challenge a placement decision for a disciplinary action.

***What is the procedure for requesting an expedited due process hearing?***

An expedited due process hearing can be requested:

- By the school district; or
- By you to challenge the manifestation determination and/or any decision regarding placement in a disciplinary action.

When you request an expedited due process hearing:

- Submit the request in writing to your superintendent and send a copy to the Office for Exceptional Children. (See page 22)
- The school district must contact the person in charge of impartial due process hearings at the Office for Exceptional Children before the end of the following business day.
- An impartial due process hearing officer will be appointed by the Office for Exceptional Children on a rotation basis before the end of the following business day from the day the district informs the Office. (See page 28)
- The impartial due process hearing officer will contact you within 24 hours of the appointment to set up the hearing.
- An expedited hearing shall occur within 20 school days of the date the hearing was requested and shall result in a determination within 10 school days after the hearing.

***Where is my child educated during an expedited due process hearing?***

Your child shall remain in the IAES pending the decision of the hearing officer or until the expiration of the suspension/expulsion, whichever occurs first.

***How do I request an appeal of the decision made in an expedited hearing?***

Your written request must be made to the State Board of Education c/o the Office for Exceptional Children within 10 calendar days after the

notification of the hearing officer's written decision. The review shall be completed and a written decision issued by the state level review officer within 30 calendar days with no extension. An appeal of the state level review officer's decision may be made to the appropriate common pleas court or federal district court.

***What rights does my child have if I suspect my child has a disability and he/she has been suspended or expelled for violating the school's code of conduct or for drugs, weapons, dangerous behavior or inflicting serious bodily injury on another person?***

You may ask for an evaluation that must be conducted in an expedited manner. When the evaluation has been completed, the IEP team must determine eligibility.

School district personnel, the parent and relevant members of the IEP team (as determined by the parent and school district personnel) must:

- Conduct a manifestation determination if your child is eligible; and
- Provide services if your child is eligible.

You may use any of the due process protections if the school had knowledge that your child is a child with a disability before the behavior occurred.

***What protections does my child have if he/she is not yet eligible?***

If the school district has knowledge that your child is a child with a disability before the behavior that required the disciplinary action occurred, then your child has the same protections as any other child with a disability.

The school district would be considered to have knowledge that your child is a child with a disability if:

- You have expressed your concern that your child is in need of special education services in writing (or orally if you do not know how to write or have a disability that prevents a written statement) to supervisory or administrative personnel of your school district or a teacher of your child;
- Your child's behavior or performance has demonstrated a need for special education services as a child with a disability;

- You have requested an evaluation for your child; or
- Your child's teacher or other school district personnel have expressed specific concerns about your child's pattern of behavior or performance to the director of special education or other supervising school district personnel as specified in the district's referral process.

Your school district would be considered not to have knowledge that your child is a child with a disability if the school district:

- Conducted an evaluation and determined that your child did not have a disability;
- Determined that an evaluation was not necessary and provided you with prior written notice (see page 9);
- If you did not allow the school district to do an evaluation of your child;
- If you have refused special education or related services for your child.

If the school district does not have knowledge that your child is a child with a disability before taking disciplinary action, then your child may receive the same disciplinary action as children without disabilities.

***What if there is a request for an evaluation of a nondisabled child during a disciplinary action?***

The school district must conduct an evaluation in an expedited manner. Until the evaluation is completed, your child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

If your child is determined to be a child with a disability, taking into consideration information from the school district's evaluation and information you provided, an IEP will be developed and special education services will be provided.

***Can the school district refer my child to the police?***

A school district can report your child to the police if the school district believes that your child has committed a crime.

If a school district reports a crime committed by your child, the school district shall ensure that copies of the special education and disciplinary

records of your child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.

**NONPUBLIC SCHOOLS**

***What are your rights if you are considering placing your child with a disability in a nonpublic school without consent or referral by the school district?***

If you are considering placing your child in a nonpublic school without consent or referral by the school district:

- You have the right to have your child evaluated by the school district where the nonpublic school is located.
- If your child is eligible for services, the school district where you live is responsible for making FAPE available to your child. If you make clear your intention to keep your child enrolled in the nonpublic school, the district where you live does not need to develop an IEP for your child.
- If your child is eligible for special education and/or related services, and you declined FAPE in the school district where you live, the nonpublic school you have chosen will consult with the public school district in which the nonpublic school is located and may develop a services plan for your child. The public school makes the final determination of whether your child will receive a service plan and the services to be provided. Services plans developed by the nonpublic school alone will not be recognized as a services plan under federal and state laws.
- If you choose to enroll your child in a nonpublic school instead of your school district of residence, your district is not required to pay the cost of education, including special education and related services, unless the school district has not made FAPE available to your child.

Please see *Guidelines for Providing Services to Children with Disabilities Parentally Placed in Ohio Chartered and Nonchartered Nonpublic Schools* (September 2005; Rev. May 2006; Rev. Feb. 1, 2007).

NOTE: Your consent must be obtained before personally identifiable information about your child is released between officials in the school

district where the nonpublic school is located and the school district where you live.

NOTE: You should be aware that your procedural safeguards rights are not the same if you choose to place your child in a nonpublic school. You have no due process rights beyond child find, identification and evaluation and the availability of a program appropriate for your child, and the question of financial responsibility.

However, you do have the right to complain to the Ohio Department of Education about:

- Child find (identifying, locating and evaluating);
- Identification and evaluation;
- Provision of services the school district has agreed to provide;
- The amount of funds the school district must spend;
- Location of services;
- Transportation;
- Separation of classes;
- Requirements that funds not benefit a nonpublic school;
- Use of public school personnel;
- Use of nonpublic school personnel; and
- Requirements concerning property, equipment and supplies.

Also, your child is not entitled to any service or to any amount of a service that he/she would receive if enrolled in a public school.

***Under what conditions may the public school district be required to pay all or part of your child's nonpublic education?***

If your child previously received special education and related services from your school district and you enroll your child in a nonpublic school without the consent of or referral by the school district, a court or hearing officer may require the school district to reimburse you for the cost of the nonpublic school placement if:

- The school district of residence had not made FAPE available to your child in a timely manner prior to the nonpublic school enrollment; and
- Nonpublic school placement is appropriate.

NOTE: A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that

apply to education provided by the State and the school districts.

Reimbursement costs for nonpublic education may be reduced or denied by the court or the hearing officer if:

- At the most recent IEP meeting you attended prior to the removal of your child from the public school, you did not inform the IEP team that you were rejecting the proposed placement by stating your concerns and your intent to enroll your child in a nonpublic school at public expense;
- At least 10 business days (including any holidays that occur on a business day) prior to your removal of your child from the public school, you did not give written notice to the school district that you were rejecting the proposed placement to provide FAPE to your child. This written notice should include a statement of your concerns and your intent to enroll your child in a nonpublic school at public expense;
- Prior to your removal of your child from the public school, the school informed you of its intent to evaluate your child and you did not make your child available for the evaluation; OR
- There is a judicial finding of unreasonableness with respect to actions taken by you.

The cost of reimbursement for nonpublic school placement may not be reduced or denied if you failed to provide written notice because:

- You cannot read or write in English;
- Providing the written notice would likely result in physical or serious emotional harm to your child;
- The school prevented you from providing such notice; or
- You did not receive your procedural safeguards rights, i.e., *Whose IDEA Is This?*, and were not informed you had to provide written notice.

***What kind of nonpublic schools are there and does it make a difference to me or my child?***

There are two kinds of nonpublic schools: (1) chartered and (2) nonchartered. See the definition of nonpublic schools on page 47 for a description of both types of schools. Students with disabilities who attend chartered nonpublic

schools may receive services from the public school district. Students attending non-chartered nonpublic schools do not.

***May my child receive services in the nonpublic school building?***

At the discretion of the public school district, your child may receive services in the nonpublic school building.

***Is transportation provided for my child?***

Your child is entitled to transportation to the same degree as any child without disabilities who is attending a chartered nonpublic school.

If your child's services plan requires services that are provided at another location, then transportation to and from that location must be provided. Transportation must be provided to and from your child's nonpublic school or home to the location of the services, depending upon the time of services.

## COMMONLY USED TERMS

### **Administrative Review**

A meeting where you may present complaints to the superintendent of your school district regarding your child's evaluation, educational placement, or the provision of special education.

### **Age of Majority**

Age at which special education rights transfer from you to your child (18 years in Ohio). An explanation of these rights (*Whose IDEA Is This?*) must be given to your child at least one year prior to his/her 18th birthday.

### **Annual Goals**

Statements on your child's IEP that describe what he/she can be expected to accomplish in one year in the area of need.

### **Assessment**

Methods or tools used for measuring:

- Present levels of performance and educational needs;
- Eligibility for service;
- Progress toward achieving goals; and
- Category of disability.

### **Assistive Technology Device**

Any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of your child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such service.

### **Assistive Technology Service**

Any service that directly assists your child with a disability in the selection, acquisition or use of an assistive technology device including:

- Evaluation of your child's needs, including a functional evaluation of your child in your child's customary environment;
- Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

- Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;
- Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- Training or technical assistance for a child with a disability, or, if appropriate, that child's family; and
- Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of your child.

### **Case Conference**

An informal meeting that allows you and/or your school district to review and interpret information regarding your child and his/her IEP in order to resolve problems.

### **Cognition**

The process of thinking and acquiring knowledge.

### **Continuum of Services**

The continuum of services includes instruction in regular classes, special classes, special schools, home instruction, instruction in hospitals and institutions, and provisions for supplementary services (such as resource room and itinerant instruction) to be provided in conjunction with regular class placement.

### **Core Academic Subject**

Core academic subjects means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history and geography.

### **Developmentally Appropriate Curriculum**

An educational program that is designed to be appropriate for your child's age and ability.

## ***Developmental Domains***

Refers to the following areas of development:

- ***Adaptive Domain*** — The area of the curriculum that addresses self-help, independent functioning, and personal and social responsibility.
- ***Aesthetic Domain*** — The area of the curriculum that addresses opportunities for creativity through such activities as art, music and movement.
- ***Cognitive Domain*** — The area of the curriculum that addresses the understanding of time, area, volume, number and classes.
- ***Communication Domain*** — The area of the curriculum that addresses the form, content and use of language.
- ***Sensorimotor Domain*** — The area of the curriculum that addresses sensory awareness, exploration and differentiation based on sensory input, and small- and large-muscle development.
- ***Social-Emotional Domain*** — The area of the curriculum that addresses management of self, as well as relationships with peers and adults.

## ***Differentiated Referral Procedures***

The planning, implementation and evaluation of interventions conducted prior to referral for a multifactor evaluation.

## ***District of Residence***

The school district where the parents of a child with a disability live.

## ***Documented Deficit***

An area of development that has been determined to be deficient based on information obtained through interview, observation and/or assessments.

## ***Due Process***

A series of steps safeguarded by law (IDEA) that protect the rights of parents and their children with disabilities.

## ***Early Intervention Services***

Services provided to children with developmental delays from birth through age two.

## ***Evaluation***

Procedures used to determine whether your child has a disability and the nature and extent of special education and related services needed.

## ***Free Appropriate Public Education (FAPE)***

Special education and related services provided at public expense, under public supervision and direction, and at no cost to parents. These services must meet the standards of the Ohio Department of Education, include an appropriate preschool, elementary school, or secondary school education in the state, and be provided in conformity with your child's IEP.

## ***Functional Behavior Assessment***

A process that may include interviews, direct observations, and other evaluations of the student's behaviors. Some of the questions asked as part of a functional behavioral assessment may include: What happened before the behavior? What happened during the behavior? What was the result of the behavior? In what environment did the behavior occur? Has the child's medication been changed? Did the child receive medication at the right time?

## ***Functional Evaluation (Vocational)***

Process used to identify the student's work characteristics, and training and support needs in relation to actual job requirements. Functional assessment information is gathered so that the best job match can be determined for a student. The information must be interpreted in relation to the actual requirements of the job.

## ***General Curriculum***

The instruction, services and activities provided for all students (disabled and nondisabled).

## ***Group Entitlement***

Provision of special education and/or related services for all children with disabilities who

attend a specific private school are considered on a group basis rather than on an individual basis, as is the case in public school.

### **Homeless Children**

Has the meaning given the term “homeless children and youths” in section (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act as amended, 42 U.S.C. 11431 *et seq.*

### **Independent Education Evaluation (IEE)**

An evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of your child.

### **Individualized Education Program (IEP)**

A written statement for your child that is developed, reviewed, and revised in accordance with federal and state regulations.

### **Integrated Employment**

Employment in which people who have disabilities participate in regular work at typical settings alongside people without disabilities.

### **Intervention Assistance Team (IAT)**

A team of educators from your child's school that meet to design interventions for children who are experiencing difficulty. You *may* be invited to participate in an IAT meeting about your child.

### **Least Restrictive Environment (LRE)**

To the maximum extent appropriate, children with disabilities (including children in public or nonpublic institutions or other care facilities) are educated with children who are nondisabled. Removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

### **Limited English Proficient**

Has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

### **Mediation**

A meeting that may be held if efforts to resolve an issue have failed at the school district level or after a due process hearing has been requested. A representative of the Ohio Department of Education may be asked to mediate the dispute.

### **Modification**

Any change that is made in your child's school, work and/or environment to meet their individual special education needs.

### **Nonpublic School**

A nonpublic school is an institution of learning organized and maintained by private individuals or by a private corporation or organization. Chartered nonpublic schools are considered “private schools” that meet the Ohio Minimum Standards for Ohio Schools. Nonchartered, nontax supported schools are not seeking to be chartered by the State Board of Education because of truly held religious beliefs.

### **Parent**

(A) “Parent” means:

- (1) A biological or adoptive parent of a child but not a foster parent of a child, (NOTE: A foster parent is prohibited by Ohio law from serving as a parent because legal custody of the foster child is held by a children services agency, and not by the foster parent. A foster parent may be appointed as a surrogate parent if the foster parent meets applicable requirements);
- (2) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the state if the child is a ward of the state);
- (3) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or
- (4) A surrogate parent who has been appointed in accordance with 34 C.F.R. 300.519 or section 639(a)(5) of IDEA;

(B) Except as provided in (C) of this definition, the biological or adoptive parent, when attempting to act as the parent under Part B

of IDEA and when more than one party is qualified under (A) of this definition to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

- (C) If a judicial decree or order identifies a specific person or persons under (A)(1) through (3) of this definition to act as the “parent” of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the “parent” for purposes of this definition.

NOTE: A student at age 18 may act on his or her own behalf.

### ***Preschool Special Education***

Specifically designed instruction that meets the needs of a child with a disability between three and five years of age.

### ***Present Levels of Performance***

Statements developed from relevant information about your child. This information includes progress on the current IEP, the evaluation team report, input from you and your child, interventions, assessments, observations, and special factors. This information provides a “picture” of your child including his/her strengths and needs.

### ***Procedural Safeguards***

Procedures, which protect the rights of children with disabilities and their parents with respect to FAPE, established and maintained by the state education agency (SEA).

### ***Public Expense***

The school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to you.

### ***Related Services***

Transportation and such developmental, corrective, and other supportive services as are required to assist your child to benefit from his/her special education and includes the services listed in the federal regulation at 34 CFR 300.34.

### ***Scientifically Based Research***

Scientifically based research has the meaning given the term in section 9101(37) of the ESEA.

### ***Short-Term Objectives***

Intermediate steps leading to each annual IEP goal. Objectives must be measurable and understandable to all IEP team members.

### ***Special Education***

Specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and instruction in physical education, and includes the terms specified in federal regulation at 34 CFR 300.39.

### ***Standardized Testing***

Tests that are given in the same way each time and are broken down into subsets to assess different areas of ability. IQ tests, achievement or language, developmental, adaptive behavior, behavior assessment and fine motor, gross motor and visual perceptual tests are some examples.

### ***State-Level Review***

A review of an appeal of an impartial due process hearing conducted by a state-level review officer appointed by the Office for Exceptional Children.

### ***Stay-Put***

Your child’s educational status during a due process hearing. Your child must remain in his/her present educational placement unless the impartial due process hearing officer rules otherwise.

### ***Supplemental Aids and Services***

Aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.

**Surrogate Parent**

Someone who is appointed by the school district to act in the place of child's parent, representing the child in all areas of educational matters, if the child's parent cannot be located.

**Suspension**

A suspension is any time that your child is not being provided FAPE due to a disciplinary action.

**Transition Services**

A coordinated set of activities for your child at age 16, or earlier, that is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, and independent living or community participation; is based on the individual child's needs, taking in to account the child's strengths, preferences, and interests; and includes instruction; related services; community experiences; the development of employment and other post-school adult living objectives; and if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation; and for age 14 or younger, if deemed appropriate by the IEP team, a statement of transition services that focuses on the student's courses of study. Transition services for children with disabilities may be special education, if provided as specially designed instruction or a related service, if required to assist a child with a disability to benefit from special education.

**Universal Design**

Has the meaning given the term in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002)

**Ward of the State**

The term "ward of the state" means a child who, as determined by the state where the child resides, is a foster child, is a ward of the state, or is in the custody of a public child welfare agency.

## DISABILITY CONDITIONS DEFINED

**“Autism”** means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three that adversely affects a child’s educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a child’s educational performance is adversely affected primarily because the child has a serious emotional disturbance. A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria of the first two sentences of this definition are satisfied.

**“Cognitive Disability”** (mental retardation) means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child’s educational performance.

**“Deaf-blindness”** means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

**“Deafness”** means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a child’s educational performance.

**“Emotional Disturbance”** means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child’s educational performance:

- An inability to learn that cannot be explained by intellectual, sensory, or health factors;
- An inability to build or maintain satisfactory intrapersonal relationships with peers and teachers;
- Inappropriate types of behavior or feelings under normal circumstances;

- A general pervasive mood of unhappiness or depression; or
- A tendency to develop physical symptoms or fears associated with personal or school problems.

The term includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have a serious emotional disturbance.

**“Hearing Impairment”** means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child’s educational performance, but that is not included under the definition of deafness.

**“Multiple Disabilities”** means concomitant impairments (such as mental retardation-blindness and mental retardation-orthopedic impairment), the combination of which causes such severe educational problems that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blindness.

**“Orthopedic Impairment”** means a severe orthopedic impairment that adversely affects a child’s educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member); impairments caused by disease (e.g., poliomyelitis, bone tuberculosis); and impairments from other causes (e.g., cerebral palsy, amputation, and fractures or burns that cause contractures).

**“Other Health Impairment”** means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever or sickle cell anemia, and Tourette syndrome; and adversely affects a child’s educational performance.

**“Preschool Children with a Disability”** means a child who is at least age 3 and less than age 6; and has a disability, demonstrated by a

documented deficit in one or more areas of development, which has an adverse effect upon normal development and functioning.

**“Specific Learning Disability”** means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not include children who have learning problems that are primarily the result of visual, hearing or motor abilities, of mental retardation, of emotional disturbance, or of environmental, cultural or economic disadvantage.

**“Speech or Language Impairment”** means a communication disorder, such as stuttering, impaired articulation, language impairment or a voice impairment that adversely affects a child’s educational performance.

**“Traumatic Brain Injury”** means an acquired injury to the brain caused by external physical force or by other medical conditions, including but not limited to stroke, anoxia, infectious disease, aneurysm, brain tumors and neurological insults resulting from medical or surgical treatments. The injury results in total or partial functional disability or psychosocial impairment, or both, that adversely affects a

child’s educational performance. The term applies to open or closed head injuries, as well as to other medical conditions that result in acquired brain injuries. The injuries result in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

**“Visual Impairment Including Blindness”** means impairment in vision that, even with correction, adversely affects a child’s educational performance. The term includes both partial sight and blindness. Visual impairment for any child means:

- A visual impairment, not primarily perceptual in nature, resulting in a measured visual acuity of 20/70 or poorer in the better eye with correction; or
- A physical eye condition that affects visual functioning to the extent that special education placement, materials, and/or services are required in an educational setting.

Effective Date: March 1, 2007

Prior Effective Dates: February 2000; November 2004; Addendum to November 2004: effective July 1, 2005; September 2005 (Technical Corrections 9/23/2005, 11/7/2005, 11/17/2005)

Ohio Department of Education  
Office for Exceptional Children



**Direct Request for Mediation/Withdrawal**

I am requesting mediation with my child's school district in order to resolve issues involving my child with a disability. Please contact the district on my behalf.

Child's Name: \_\_\_\_\_

Child's Grade: \_\_\_\_\_

Child's School and District of Attendance: \_\_\_\_\_

Parent (Print name): \_\_\_\_\_

Parent Signature: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, and Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Date: \_\_\_\_\_

**Please mail and/or fax to:**

Mediation Coordinator  
Office for Exceptional Children  
Ohio Department of Education  
25 South Front Street, Mail Stop 202  
Columbus, OH 43231-4183  
Phone: (614) 387-0340  
FAX: (614) 728-1097

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 (To be filled out for Complaint and Due Process Withdrawal only)  
**COMPLAINT WITHDRAWAL** CASE # \_\_\_\_\_

**DUE PROCESS WITHDRAWAL** \_\_\_\_\_

This confirms the mediation between \_\_\_\_\_  
and \_\_\_\_\_

\_\_\_\_\_ herein after called the "parties", which  
resulted in a mutual agreement between the parties. As a result of the agreement, \_\_\_\_\_

\_\_\_\_\_ hereby withdraws the complaint against \_\_\_\_\_  
that was filed on \_\_\_\_\_

Parent Signature: \_\_\_\_\_ Date: \_\_\_\_\_

District Representative Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Witness Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Ohio Department of Education  
Office for Exceptional Children  
Complaint Form**

The Ohio Department of Education  
Office for Exceptional Children  
Attn: Assistant Director of Procedural Safeguards  
25 South Front Street, 2<sup>nd</sup> Floor  
Columbus, OH 43215

Complainant Name: \_\_\_\_\_

Complainant Relationship to Student: \_\_\_\_\_

Complainant Address: \_\_\_\_\_

City, State, and Zip Code: \_\_\_\_\_

Complainant Phone Numbers:

Work: ( ) \_\_\_\_\_

Home: ( ) \_\_\_\_\_

E-mail Address (Optional) \_\_\_\_\_

Student's Name: \_\_\_\_\_

Student's Address (if address is different from complainant's):  
\_\_\_\_\_

Student's Age: \_\_\_\_\_ Student's Grade Level: \_\_\_\_\_

Student's Area of Identified/Suspected Disability: \_\_\_\_\_

Student's School District of Residence: \_\_\_\_\_

Name of the School the Student Is Attending: \_\_\_\_\_

**A description of the problem, including facts relating to the problem:**

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**DATE OF VIOLATION:** \_\_\_\_\_

\* As per 34 CFR §300.153 (c) [Filing a complaint], the date of the alleged violation can not be more than one year prior to the date that you are filing this complaint.

**A PROPOSED RESOLUTION TO THE PROBLEM:**

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\*The proposed resolution will be taken into consideration; however, the final resolution of the complaint will be determined by the Ohio Department of Education, Office for Exceptional Children.

**A description of the problem, including facts relating to the problem:**

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**DATE OF VIOLATION:** \_\_\_\_\_

\* As per 34 CFR §300.153 (c) [Filing a complaint], the date of the alleged violation can not be more than one year prior to the date that you are filing this complaint.

**A PROPOSED RESOLUTION TO THE PROBLEM:**

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\*The proposed resolution will be taken into consideration; however, the final resolution of the complaint will be determined by the Ohio Department of Education, Office for Exceptional Children.

**A description of the problem, including facts relating to the problem:**

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**DATE OF VIOLATION:** \_\_\_\_\_

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**A PROPOSED RESOLUTION TO THE PROBLEM:**

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\*The proposed resolution will be taken into consideration; however, the final resolution of the complaint will be determined by the Ohio Department of Education, Office for Exceptional Children.

**A description of the problem, including facts relating to the problem:**

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**DATE OF VIOLATION:** \_\_\_\_\_

\* As per 34 CFR §300.153 (c) [Filing a complaint], the date of the alleged violation can not be more than one year prior to the date that you are filing this complaint.

**A PROPOSED RESOLUTION TO THE PROBLEM:**

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\*The proposed resolution will be taken into consideration; however, the final resolution of the complaint will be determined by the Ohio Department of Education, Office for Exceptional Children.

**A description of the problem, including facts relating to the problem:**

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**DATE OF VIOLATION:** \_\_\_\_\_

\* As per 34 CFR §300.153 (c) [Filing a complaint], the date of the alleged violation can not be more than one year prior to the date that you are filing this complaint.

**A PROPOSED RESOLUTION TO THE PROBLEM:**

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\*The proposed resolution will be taken into consideration; however, the final resolution of the complaint will be determined by the Ohio Department of Education, Office for Exceptional Children.

**LIST THE SCHOOL OFFICIALS YOU HAVE MADE CONTACT WITH REGARDING THESE ISSUES:**

**NAME/TITLE**

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**COMPLAINANT'S SIGNATURE: \_\_\_\_\_**

As per 34 C.F.R. 300.153 this form must be signed or it cannot be processed and will be returned to you for signature.

- The Office for Exceptional Children will not accept faxed complaints or complaints which are sent via email.
- As per 34 C.F.R. 300.153 (c), a copy of the complaint must be sent by the complainant to the district against whom the complaint is filed.
- Please check the box if you have sent a copy of this complaint to the superintendent of the school district against whom the complaint is being filed.**

At the conclusion of the OEC's review, findings are issued only to the parent, or student who has reached the age of majority, and the district, unless the complainant has obtained and filed the necessary consent for release of the information. If the complaint does not have the necessary consent for release of information, the complainant receives a letter of assurance that any identified areas of noncompliance have been addressed.

**Note:** The use of this form is not required. Instead of using this form, you may submit your own complaint, but your request must include all information required by federal regulation 34 CFR §300.153.

**Please mail all complaints to the following address:**

**The Ohio Department of Education  
Office for Exceptional Children  
Attn: Assistant Director of Procedural Safeguards  
25 South Front Street, 2<sup>nd</sup> Floor  
Columbus, OH 43215**

**DUE PROCESS COMPLAINT NOTICE AND REQUEST FOR A DUE PROCESS HEARING**  
**Instructions**

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Please provide information requested in all of the fields.

1. *Name of the child.*
2. *Address of the residence of the child; or in the case of a homeless child or youth, available contact information.*
3. *Name and address of the school the child is attending.*
4. *Name of parent and address if address is different from child's; or in the case of a homeless child or youth, available contact information for the child: "Homeless" means homeless within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11434a(2); and telephone numbers.*
5. *Disability category:* Provide a list of all disabilities that currently apply to the child. If the child has not been identified as a child with a disability, state "Child has not been identified" in the space provided.
6. *Mediation:* Mediation is a free service provided by the State to resolve disputes. Participation in mediation is completely voluntary and must be agreed to by both parties. A mediator will arrange dates for the parties to discuss remedies to resolve the dispute. Mediation is concurrent with due process, but the mediation meeting will usually be scheduled before the due process hearing takes place. If you are interested in mediation, please check the applicable line.
7. *Description of the Problem:* Provide a description of the nature of the problem which is the basis of your request for a due process hearing, and provide facts relating to the problem. **Example of Problem:** The problem is the school district's failure to implement my child's IEP. **Example of Facts Relating to the Problem:** My child has not received the speech and language services specified in her IEP.
8. *Description of the Proposed Resolution:* State the resolution you are proposing to the extent known and available to you at the time. **Example of Proposed Resolution:** I am proposing that my child receive the speech and language services specified in her IEP.
9. *Expedited Hearing, if Applicable:* A parent may request an expedited hearing **only** if the parent disagrees with a decision regarding placement for disciplinary removals or with the manifestation determination. A local educational agency (LEA) may request an expedited hearing **only** if the LEA believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others. *An expedited hearing may **not** be requested for any other reason.*
10. *Attorney or Representative:* If you have an attorney or representative in this case, please provide the name and address of the attorney or representative. If this section is completed by the parent or LEA, all due process correspondence and information will be sent to the attorney or representative and not to the parent or LEA.
11. *Signature:* Sign and date the complaint notice/due process hearing request.
12. *Submission of Request:* Send the original completed request to the other party, and send a copy to the Ohio Department of Education, Office for Exceptional Children, Procedural Safeguards, 25 South Front Street, Columbus, Ohio 43215-4183 or fax a copy to (614) 728-1097.

**Note:** The use of this form is not required. Instead of using this form, you may submit your own due process request, but your request must include all information required by federal regulation at 34 CFR § 300.508.



DUE PROCESS COMPLAINT NOTICE AND REQUEST FOR A DUE PROCESS HEARING  
(Continuation of Facts)

A DESCRIPTION OF THE PROPOSED RESOLUTION YOU ARE SEEKING (*Provide the proposed resolution of the problem to the extent known and available to the party at the time*) (Attach additional pages if necessary).

REQUEST FOR EXPEDITED HEARING (**Complete only if you are requesting an expedited hearing.**)

*An expedited hearing may be requested **ONLY** if one of the following reasons applies.*

**Parent: As the parent/guardian or student, I am requesting an expedited hearing because (Check one of the following):**

- I disagree with a decision regarding placement for disciplinary removals; or  
 I disagree with the manifestation determination.

**School District (LEA): As the school district (LEA), I am requesting an expedited hearing because:**

I believe that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

NAME AND ADDRESS OF THE ATTORNEY OR REPRESENTATIVE FOR THE PARENT/GUARDIAN OR LEA. *If this section is completed, all information and correspondence regarding the due process request will be sent to the attorney or representative and not to the parent or LEA.*

TELEPHONE NUMBER

( )

FAX NUMBER

( )

**The Party Requesting the Hearing is (Check one):**

Parent/Guardian of the child on whose behalf the hearing is being brought

Other Educational Agency (Name):

School District of Residence (Superintendent)

Student with a Disability Who Is At Least 18 years Of Age But Not More Than 21 Years Of Age

\_\_\_\_\_  
Name (printed) of Party Requesting Hearing

\_\_\_\_\_  
Signature of Party Requesting Hearing

\_\_\_\_\_  
Date of Signature

*Submission of Request:* Send the original completed request to the other party, and send a copy to the Ohio Department of Education, Office for Exceptional Children, Procedural Safeguards, 25 South Front Street, Columbus, Ohio 43215-4183 or fax a copy to (614) 728-1097.

**Note:** The use of this form is not required. Instead of using this form, you may submit your own due process request, but your request must include all information required by federal regulation at 34 C.F.R. § 300.508. **See page one for instructions.**